

STATE OF CALIFORNIA
2020 CITIZENS REDISTRICTING COMMISSION (CRC)

In the matter of:

LEGAL AFFAIRS COMMISSION

WEDNESDAY, MARCH 24, 2021

9:30 a.m.

Reported By:

eScribers, LLC

APPEARANCES**COMMISSIONERS**

Russell Yee, Chair
Sara Sadhwani, Vice Chair
Pedro Toledo, Vice Chair

STAFF

Alvaro E. Hernandez, Executive Director

TECHNICAL CONTRACTORS

Kristian Manoff, AV Technical Director/Comment Moderator
Katy Manoff, Comment Moderator

INTERPRETERS

ASL Interpreter
Captioner

ALSO PRESENT

Deborah Yang, Attorney General's Office

PUBLIC COMMENT

Rosalind Gold, NALEO
Helen Hutchison, League of Women's Voters
Angelo Ancheta, former CRC Commissioner
Rene Reed [

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P R O C E E D I N G S

9:30 a.m.

1
2
3 CHAIR YEE: Good morning. And welcome back to the
4 Legal Affairs Committee of the 2020 California Citizens
5 Redistricting Commission.
6

7 I am the chair, rotating chair for this month,
8 Russell Yee. Here also are Commissioners Pedro Toledo
9 and Sara Sadhwani.

10 We are considering the matter of our Litigation
11 Counsel Hiring, and where we left off yesterday was a
12 discussion of the two leading candidates, the Gibson Dunn
13 firm, and the Strumwasser & Woocher, Becker team.

14 Before we open that discussion, a note that we did
15 discuss briefly our racially polarized voting needs
16 yesterday, and a reminder that that item is not agendized
17 for consideration for further action; and so it is part
18 of the -- especially the VRA Counsel package of
19 considerations; and so it's a proper topic, but changing
20 in plans and making any plans for actually how to pursue
21 that further. We will need to agendize that to pursue
22 that.

23 With that, let's start off with public comment. And
24 Katy, you can go ahead and open that up.

25 PUBLIC COMMENT MODERATOR: Chair, do you need to

1 take the roll?

2 CHAIR YEE: Oh. Good call. Sure.

3 PUBLIC COMMENT MODERATOR: Okay.

4 DIRECTOR HERNANDEZ: I'll go ahead and do that.

5 CHAIR YEE: Director Hernandez.

6 DIRECTOR HERNANDEZ: Commissioner Sadhwani.

7 VICE CHAIR SADHWANI: Here.

8 DIRECTOR HERNANDEZ: Commissioner Toledo.

9 VICE CHAIR TOLEDO: Present.

10 DIRECTOR HERNANDEZ: And Commissioner Yee.

11 CHAIR YEE: Here.

12 DIRECTOR HERNANDEZ: All present and accounted for.

13 Thank you.

14 CHAIR YEE: Very good. Thank you, Katy.

15 PUBLIC COMMENT MODERATOR: You're welcome, Chair.

16 All right. In order to maximize transparency and

17 public participation in our process, the Commissioners

18 will be taking public comment by phone. To call in, dial

19 the telephone number provided on the live stream feed.

20 It is 877-853-5247. When prompted, enter the meeting ID

21 number provided on the live stream feed, it is

22 93564446340. When prompted to enter a participant ID

23 simply press the pound key.

24 Once you have dialed in, you will be placed in a

25 queue. To indicate you wish to comment, please press

1 star 9. This will raise your hand for the moderator.
2 When it is your turn to speak, you will hear a message
3 that says: The host would like you to talk, press star 6.
4 If you would like to give your name, please state and
5 spell it for the record. You are not required to provide
6 your name to give public comment.

7 Please make sure to mute your computer or live
8 stream audio to prevent any feedback or distortion during
9 your call. Once you are waiting in the queue, be alert
10 for when it is your turn to speak. And again, please
11 turn down the live stream volume.

12 And we do have several people in the queue. And
13 again, I'd like to remind the people that are calling in,
14 if you can press star 9 to raise your hand to indicate
15 you would wish to comment. And we do have a raised hand,
16 and I will open the line.

17 CHAIR YEE: Thank you.

18 PUBLIC COMMENT MODERATOR: And the floor is yours.

19 MS. GOLD: Great. Good morning, Commissioners.

20 Thank you so much. This is Rosalind Gold,
21 R-O-S-A-L-I-N-D, and the last name is Gold. And I'm
22 Chief Public Policy Officer of the NALEO Educational
23 Fund. And as always, I want to thank you for your
24 thoughtfulness, and your perspective, and you really are
25 drilling down on some very tough issues throughout this

1 process, and also with respect to the consideration of
2 Litigation and VRA Counsel.

3 I just wanted to make two comments regarding the
4 choice of Litigation Counsel. We do believe it is
5 relevant that Gibson Dunn has taken a position with
6 respect to a case on the CVRA, where it is defending a
7 municipality against the CVRA claim, and that CVRA claim
8 is going up through the court.

9 We do understand that attorneys, you know, basically
10 take clients. And those clients, you know, they feel
11 they can represent the client no matter what side of the
12 issue that they are on. But this is, you know, the
13 Litigation Counsel for the Commission is a very, very
14 special kind of role. It requires a deep, deep
15 commitment to protecting voting rights, because we know
16 our Commissioners are committed, and that the maps that
17 you're working on will reflect that commitment.

18 And so we do have concerns about the role that
19 Gibson Dunn has had with respect to the CVRA, especially
20 since the CVRA is, you know, California's cutting edge
21 and put a shining jewel of really trying to protect the
22 voting rights of groups.

23 The second comment that I wanted to make is with
24 respect to the Strumwasser substitution of David Becker
25 for Justin Levitt, we do not see that as a hindrance or a

1 reason not to take their application very seriously. You
2 know, life happens. That's the best thing I could say.
3 Things come up. And sometimes you can go into a
4 situation thinking you're going to be fully available,
5 fully ready to commit to do something, and then
6 circumstances change.

7 We believe that, actually, it was very responsible
8 for Strumwasser to look for somebody who was also
9 qualified, and to make sure that that person would be
10 part of their team, Mr. Becker. So we would just like
11 you to think about that substitution, not as something
12 that reflects negatively on Strumwasser.

13 I'm happy to take any questions.

14 CHAIR YEE: I think those are two good points for
15 sure. Any questions, Commissioners?

16 MS. GOLD: Okay. Thank you so much. I appreciate
17 it.

18 VICE CHAIR TOLEDO: Thank you so much.

19 CHAIR YEE: Thank you, Ms. Gold. I always
20 appreciate your attention to our proceedings.

21 PUBLIC COMMENT MODERATOR: Okay. And we do have
22 other callers. And I would like to remind anybody in the
23 queue to press star 9, if you would like to raise your
24 hand indicating you would wish to comment. We do have a
25 raised hand, however. And I will open that line. And

1 the floor is yours.

2 MS. HUTCHISON: Hi. Good morning, Commissioners.
3 This is Helen Hutchison with the League of Women Voters
4 of California. I have just a kind of a quick observation
5 on yesterday's interview. I want to agree with you that
6 Gibson Dunn's overall presentation was really very
7 smooth. But while the other two firms had very nuanced
8 and well-prepared answers to your question about H.R. 1,
9 Gibson Dunn seemed caught off guard by the questions, as
10 if they hadn't done all their homework.

11 Thanks again for your work on this really very
12 important task.

13 CHAIR YEE: Thank you, Ms. Hutchison. Yeah, I
14 noticed that too.

15 PUBLIC COMMENT MODERATOR: And we do have one final
16 caller. They have not chosen to raise their hand. So I
17 will ask one more time; if you would like to comment,
18 please press star 9 to raise your hand.

19 Otherwise, Commissioners, the queue -- oh, no; they
20 have raised their hand. There we go. Got them hitting
21 all kinds of stars now, so -- that's going to be star --
22 oh, there we go. The floor is yours.

23 MR. ANCHETA: Good morning, Commissioners. Angelo
24 Ancheta, A-N-G-E-L-O A-N-C-H-E-T-A. I apologize. I have
25 got my hands full with one of my children. I'm free at

1 this moment though. As you know, I have two young ones
2 to take care of.

3 I wanted to comment on two things because I think
4 some questions arose yesterday about the 2011 process. I
5 wanted to fill in a little bit of the gap that may have
6 arisen yesterday. And then I do want to comment a little
7 bit on the applicant pools. So with especially the 2011
8 process, I think Commissioner Toledo raised the question
9 about new -- it was structured because of the hiring of
10 both counsel.

11 You know, in essence, it was a staggered process.
12 We just sort of took what we felt was most expedient and
13 necessary at the time. So we did hire the VRA Counsel in
14 March of 2011, and then later in the summer, in July,
15 hired the Litigation Counsel, and we opted to go with a
16 co-counseling arrangement, where Gibson Dunn, which had
17 been the VRA Counsel, was co-counseling with the firm of
18 Morrison & Foerster. And I think Morrison & Foerster, I
19 think, is not applying this year for that position.

20 You know, in previous comments, I've expressed my
21 concerns that came up regarding the Gibson Dunn VRA
22 representation. I'm not going to repeat those here.
23 Certainly, that firm was considered quite strong in terms
24 of its litigation and appellate advocacy, which is why we
25 retained them for the Litigation Counsel.

1 And I would point, just for members of the public,
2 as I pointed out to Commissioners Yee and Sadhwani
3 previously, but there are transcripts from 2011, the
4 March 15th set of transcripts, and on March 15th, the
5 week of March 15th, and July 21st and 23rd, where some of
6 our discussions illuminated some of the things we went
7 through. So I'd refer, you know, Commissioner Toledo to
8 some of those. Or certainly, members of the public can
9 look at them as well.

10 We did feel that the Gibson Dunn was important to
11 keep on for continuity purposes, but we also felt that
12 the Morrison & Foerster stood firm, and in particular one
13 of their partners, Jim Brosnahan, who is a nationally
14 known trial lawyer, could really bring a strong value-
15 added to the mix, which is why we ultimately met with a
16 co-counsel arrangement. And Mr. Brosnahan was ultimately
17 would -- presented oral arguments in the State Supreme
18 Court.

19 So again, the work was shared between those two
20 firms. We did not try to micromanage them as they were
21 moving forward. Stan Forbes and I were the ones, along
22 with our Counsel, Mr. Miller, were the ones who had
23 oversight over the firms. But we let them, pretty much,
24 do their thing because, obviously, when you're in
25 litigation, things are moving quickly, a lot of paper

1 going back and forth. And we were, of course, quite
2 satisfied with the work, and we were successful in all of
3 the challenges.

4 So with respect to the current pool, I certainly
5 echo Rosalind Gold's concerns about the -- that she
6 raised about both the Gibson Dunn application, and the
7 Strumwasser application because of the substitution of
8 counsel. You know, I know Mr. Becker from many different
9 conferences, and other events. He's certainly very well
10 qualified and has quite a bit of litigation experience.

11 So I think the substitution is a good one, and I
12 don't think they should be a handicapped in any way in
13 terms of their application.

14 I did want to raise some issues that have been
15 brought up by other people regarding Gibson Dunn, simply
16 because the disclosure concerns have been raised. And I
17 think I've been quoted a number of times from remarks I
18 made to the media back in 2011; those ought to be taken
19 seriously, because as I mentioned back in 2011, any
20 intentional disclosure, you know, designed to evade, or
21 deceive a Commission I think is disqualifying altogether.

22 Unintentional, but again evasive, particularly given
23 the firm's history with the Commission, I think ought to
24 be a factor in how you look at the openness of the
25 process, and how the Counsel fits with what the

1 Commission is trying to do.

2 I mean, ultimately, when you're dealing with big
3 firms who are, you know, they are elite firms, they're
4 highly educated, very experienced attorneys, but there
5 can be sort of an elitist top-down lawyering approach to
6 the extent to some of the culture. And that may or may
7 not be what you're looking for in terms of Litigation
8 Counsel, particularly if you're looking for early risk
9 assessment and management of work prior to actual
10 litigation.

11 I'm confident that any of these firms can litigate
12 and argue appeals quite well, but if you want them to
13 actually play a more intimate role in terms of your
14 decision making as you're moving forward, then you might
15 want to consider how issues like disclosure, how openness
16 to public input, and other areas of public trust, weigh
17 into your consideration.

18 And I'm happy to take any questions, if you have
19 any, about either the earlier process, or more recent
20 comments.

21 CHAIR YEE: Commissioner Sadhwani.

22 VICE CHAIR SADHWANI: Yes, Angelo, can you share a
23 little bit more about the decision to add co-counsel for
24 Morrison & Foerster? Was there an additional RFP that
25 was put out? If so that's news to me. Where did that --

1 you know, can you describe more of what that process
2 entailed?

3 MR. ANCHETA: Sure. And you know, we delegated --
4 as you know, the committee structures were a bit
5 different.

6 VICE CHAIR SADHWANI: Uh-huh.

7 MR. ANCHETA: We had a larger Standing Committee.
8 So we did have a Legal Committee. And Kirk Miller, our
9 legal counsel, was also involved in the hiring process.

10 So for the Litigation Counsel, we started putting
11 together an RFI and doing some recruitment, I think as
12 early as late June, but we certainly were moving quickly
13 in July to recruit various larger firms.

14 I should note that one of the reasons we went with
15 the private sector firms, we didn't -- we were not able
16 to secure the work of the Attorney General's Office. And
17 I don't know if you've gone through that process, but
18 because the Attorney General was not -- declined to
19 represent us, we decided we should just go for the "big
20 guns", in essence.

21 So we did put an RFI out in July. Several firms
22 replied. We delegated to Commissioners Blanco and Forbes
23 the task of interviewing several of the firms. I think
24 we got it down to five firms in terms of those initial
25 interviews. And they came back with a recommendation for

1 co-counseling. I think Ms. Blanco had worked with Mr.
2 Brosnahan in San Francisco on some cases previously;
3 again, a very well-known trial lawyer, nationally known.

4 And again, for continuity purposes, we thought the
5 Gibson Dunn representation would be important, but it's
6 something we struggled through. We had quite a bit --
7 again, I'd refer you to the transcript to get more
8 details, but we did have quite a bit of discussion about
9 that.

10 And there was actually a third firm, I think, that
11 were sort of on the table, but because we felt
12 comfortable with the two leads, and it seemed like the
13 co-counseling arrangement would work out okay, we went
14 with that approach. So we never did interview a third
15 firm.

16 VICE CHAIR SADHWANI: Thank you.

17 CHAIR YEE: Angelo, could you say more about how
18 that co-counsel working relationship played out; and
19 especially in terms of presence at meetings? Who did you
20 call?

21 MR. ANCHETA: Yeah. I think it worked -- you know,
22 again, Commissioner Forbes and I did not want to
23 micromanage. And we were given, you know, regular
24 reports, and we were certainly monitoring hours for, you
25 know, billing purposes. And as you know, it became quite

1 expensive. But you know, in the end we were successful.

2 So I can't attest to meetings between the two firms
3 that we weren't part of. It seemed to go smoothly. I
4 know if ultimately you're looking at work product just,
5 you know, outstanding work produced by both firms. I
6 can't say that one -- you know, one worked on more -- you
7 know, one set on pleadings, or briefs, or memos, than
8 another; we do know that those differentiations in terms
9 of the oral argument. And again, I think Mr. Brosnahan
10 would be the most senior attorney in the whole collection
11 of attorneys took that part.

12 But yeah, I can relate to how much they worked --
13 how well they worked together, it seemed to be -- it
14 seemed to have worked out fine, from our perspective.

15 But you know, again, you know there's something --
16 it's always challenging when you have two powerful law
17 firms who are, you know, they may be struggling for --
18 you know, who is the alpha -- for lack of a better
19 phrase -- so I don't know if that happened.

20 CHAIR YEE: Okay. Any other questions?

21 VICE CHAIR TOLEDO: I have a quick question about
22 the -- we had a public comment earlier today about the
23 CVRA, and in terms of, I mean, public information that
24 Gibson Dunn is working on a case involving the CVRA that
25 may impact, or impose, make it -- weaken the CVRA,

1 potentially, as it relates to protecting minority voting
2 rights.

3 What are your thoughts about how that should play
4 out in terms of our decision-making process? In terms of
5 the values and the -- because the Commission is committed
6 to ensuring that everyone has a fair opportunity to have
7 their voices heard, and to ensuring minority
8 participation in the process; so what are your thoughts
9 on how to evaluate that?

10 Given that the Litigation Counsel does -- is charged
11 with representing and protecting the maps that we come up
12 with, but also, as you pointed out, helping us in the
13 pre-litigation work as well.

14 MR. ANCHETA: Yeah. So you know, I don't think it's
15 an automatic disqualifier. And certainly, you know, the
16 City of Santa Monica is entitled to the best defense it
17 can get; and if they've chosen Gibson Dunn to represent
18 them in both trial and in appeals. You know, I have my
19 own opinions about the Gibson Dunn position, given how
20 they've argued both in trial and in briefs, in the
21 Appeals Court and the Supreme Court.

22 I have some serious concerns about the positions
23 they're taking. It could lead to a pretty serious
24 restriction on what types of claims can be brought under
25 the CVRA. But it's not inconsistent with zealous

1 advocacy on behalf of your client.

2 So I wouldn't fault them for taking those positions,
3 necessarily, because I think that those are positions
4 that I think the city may have to argue to win its case.

5 But you know, perceptions are important, too. And
6 you know, again, obviously, Gibson Dunn represented the
7 Commission ten years ago. They were successful. But
8 they are taking a position that I think a lot of members
9 of the public, and certainly advocacy groups who are, you
10 know, pushing for ensuring that minority rights are
11 protected, are very concerned about perceptions and
12 actual positions that might be taken.

13 But I suspect that -- you know, again, with a large
14 firm that is representing a client, I don't think you'd
15 get any less zealous advocacy, if they were your
16 attorneys, I think they would be quite capable of
17 defending the Commission's positions.

18 But you know, I think he used the term "hired gun"
19 yesterday, they're hired guns, as most law firms will be.
20 And you want you want them to be hired guns, right? But
21 perceptions, I think, are important. But you know, I
22 think you have to think about that issue as you're
23 evaluating them.

24 CHAIR YEE: Okay. Any other questions?

25 VICE CHAIR TOLEDO: I had another question about

1 H.R. 1, because that's another comment that came up. And
2 I'm not sure if you were watching the -- or how closely
3 you were watching yesterday's deliberations as we were --
4 and/or presentations, but in your -- we did have one
5 applicant that didn't answer the H.R. 1 -- didn't seem to
6 be as prepared on the H.R. 1 issue as the others.

7 How would you assess that, given that H.R. 1 is
8 something that is still pretty -- it's very uncertain
9 that H.R. 1 is going to be -- come to fruition, at least
10 during our process; but on the other hand, it is
11 something that if they're helping with -- that if any law
12 firm is helping us with a pre-litigation work, may need
13 to factor in. So I'm just curious on your thoughts
14 around that, and how you would weigh that.

15 MR. ANCHETA: Well, I was listening in, I'm not sure
16 if I caught everything, but -- well, first of all, any
17 time you're interviewing somebody and they can't answer a
18 question, or having trouble with a question, and I think
19 you published this online already. So these were not
20 secret questions. These weren't kind of "gotcha"
21 questions, I think. I'm not sure if that's the case with
22 H.R. 1, but you should be prepared to answer that
23 question.

24 You know, you may not have that long of an answer,
25 it might not be as nuanced as the Commissioners might

1 have liked, but you should be able to answer the
2 question.

3 I don't know if that was exactly the case here. So
4 that is something to think about. You know, again, I
5 think as a number of the firms, or attorneys mentioned
6 yesterday, it's very problematic whether H.R. 1 will get
7 through the Senate. But it's something you have to
8 monitor, and I think it certainly has implications for
9 the work.

10 I don't think it would necessarily change things
11 that you have to do in the cycle, but yeah, Legislative
12 monitoring on H.R. 1, you know, the John Lewis Voting
13 Rights Advancement Act which, you know, might not move --
14 and probably will not move in time for -- might not pass
15 the law, but might not move in time for anything to
16 affect your cycle. But Legislative monitoring has to be
17 part of the work that the firm, and your counsel will
18 have to deal with too.

19 CHAIR YEE: Okay. Anything else? If not, thank you
20 so much, Angelo, for their thoughts, and for staying
21 involved in the process. Now, ten years later.

22 MR. ANCHETA: Well, happy to help. And you can --
23 again, you can always, if there are specific questions
24 about what we did, and you can certainly -- I'd certainly
25 invite you to contact the other Commissioners who might

1 have more information on the process last time; happy to
2 help.

3 CHAIR YEE: Very good. Thank you.

4 VICE CHAIR SADHWANI: Thank you.

5 VICE CHAIR TOLEDO: Thank you.

6 MR. ANCHETA: Thanks.

7 PUBLIC COMMENT MODERATOR: Oh. And that was it for
8 our callers.

9 CHAIR YEE: Okay. Thank you so much, Katy.

10 Well, lots to think about. Any quick thoughts on
11 the public comments?

12 VICE CHAIR SADHWANI: You know, I guess my general
13 reaction, I don't take this lightly, voting rights, even
14 in my day job, is something I spend a whole lot of time
15 thinking about, accessibility to the ballot is a
16 fundamental right that too often gets denied.

17 So I certainly take, particularly, Rosalind Gold's
18 call very seriously. At the same time, the vast array of
19 litigation that could, potentially, be before us does
20 extend beyond voting rights, as we heard from all of the
21 applicants yesterday. There's a whole host of potential
22 areas in which people who, if they so desire, can bring
23 litigation against us.

24 And so I think for me, I'm trying to weigh that.
25 That what is the recommendation that will provide to the

1 Full Commission -- that will put the Commission on the
2 strongest ground possible? That will absolutely support
3 voting rights of the people of California, and the many
4 minority communities of California; that's something that
5 I certainly don't take lightly.

6 But at the same time, what will put us on the very
7 strongest footing for any potential litigation that comes
8 against us, voting rights or not -- it could be voting
9 rights, but it could also be procedural. It could be, as
10 some talked about yesterday, possible claims of lack of
11 access due to the pandemic, issues around the census
12 delay.

13 It is about bad census data, right? I mean, there's
14 any number of potential areas where we can face
15 litigation. And so that's I think what I'm still
16 weighing for me, is what will put the Commission in the
17 strongest possible position to defend ourselves against
18 any of those things.

19 Because I actually don't think anyone on this
20 Commission, any of our colleagues, look to diminish the
21 voting rights of anyone in California. I think we're all
22 here because we absolutely believe in voting rights for
23 all Californians, and that voters should be able to
24 choose their representatives, and representatives
25 shouldn't be able to choose their voters, right?

1 I think it's why we're here, and doing this work.
2 So I think that's still kind of what I'm weighing, and
3 certainly -- yeah. Thank you.

4 CHAIR YEE: Last night I did try to prepare a
5 summary, of kind of pluses and minuses for the two firms,
6 and I will table, then I can share. Here we go. And so
7 please correct or edit as you see fit.

8 For Gibson, plusses: Biggest guns for actual
9 litigation; which is kind of what you were getting at
10 just now, Commissioner Sadhwani.

11 VICE CHAIR TOLEDO: The biggest guns that applied
12 for --

13 CHAIR YEE: Yeah, right, right.

14 VICE CHAIR TOLEDO: -- in this process.

15 CHAIR YEE: Right, right, right. And you know, the
16 worldwide it's very, very large, so if it turns out we
17 had lots of litigation and need additional personnel,
18 they would have easy access to that.

19 I should also say, you know, if they're on our side,
20 then they're not on somebody else's side. So that's, I
21 would think, someone wanting to oppose us, you know, they
22 would be attractive since they were the 2010 Counsel, and
23 have that experience and background.

24 I think we mentioned yesterday, number two: The
25 different assets and strengths, if we do have a different

1 counsel from the VRA Counsel, it means that we'll have a
2 broader array of strengths on our side.

3 And then, of course, track record of success with
4 the prior Commission.

5 On the negatives: The big one that's come up several
6 times, questions about adequate disclosures in 2010, and
7 now, and so we've received several negative public
8 comments, especially focusing on that, and the resulting
9 issues of public trust -- and you know, public trust, and
10 we've said it many times on this Commission, that's our
11 coin. That's what we trade in. We do not take it for
12 granted. We have to continually defend it, maintain it,
13 and pursue it. And some of these concerns do,
14 potentially, erode that.

15 Also, even though this is not a competitive bid, we
16 did note that their fee structure was more vague than the
17 other candidates. And we anticipated would probably end
18 up being much higher, especially given the experience in
19 2010. It was very expensive. Those were paid in the
20 end, but we anticipated they would be the more expensive
21 choice.

22 A factor is not clearly positive or negative, but to
23 consider: The fact that they are a repeat firm, how
24 that's perceived, whether that helps or hinders in
25 different ways. And then mixed reviews from the 2010

1 experience. You know, this would be hearsay in court,
2 but just hearing people tell stories, you know, some
3 positive, some negative, of what the experience was like
4 actually working with them.

5 Anything I missed for Gibson Dunn?

6 If not, let's take a look at Strumwasser. Okay on
7 positives: If we have them for both the VRA and
8 Litigation, that would likely result in greater
9 efficiency, probably fewer billable hours in the end,
10 since they're -- you know, would not have to coordinate
11 between the two different firms. Coordinating the VRA
12 map drawing phase, with the later litigation phase would
13 be more direct.

14 They would have a better shot at aligning defensive
15 strategy. You know, we heard yesterday a couple of
16 times, the lawyers' ideal is to work on both the
17 situation that creates the matter, and then to act --
18 then to be able to represent the matter when it comes to
19 litigation. So it would bring that advantage, assuming
20 that they do become VRA Counsel as well.

21 They are a firm that specializes in government
22 agency representation. And so that's -- you know, that's
23 what they do, and we are a government agency, so there's
24 alignment there.

25 Shared values, and especially with David Becker, his

1 work in voting rights is right down our alley, and would
2 be the kind of thing that, you know, Rosalind Gold raised
3 in terms of perception, and alignment, and whose side are
4 you on, kind of thing; they bring -- this team would
5 bring that. Clear fee structure; and probably much --
6 and at a much lower cost than Gibson Dunn.

7 Some negatives: The late change in personnel adds
8 unknowns to the application. We discussed that quite a
9 bit yesterday. Not necessarily negatives, but it just
10 makes it harder to assess. And then they are a smaller
11 firm, and may not have ready access to additional
12 personnel if needed, although that's -- you know, that
13 may -- that's just a guess.

14 And then the net effect from Levitt to Becker,
15 positives and negatives: You know, it certainly seemed --
16 you know, to take former Commissioner Ancheta's comments;
17 on paper, and from what I've learned, I think there --
18 certainly there's no loss in experience and expertise
19 from one to the other. And in fact, Mr. Becker has more
20 experience in the actual litigation, his years at the
21 DOJ, than Justin Levitt has. But still, some question
22 there exactly what is gained and lost.

23 That's what I recall. Anything to add or change?

24 Let me shrink this so you can see it all.

25 VICE CHAIR TOLEDO: Well, first, just thank you for

1 putting this together. I think this is very helpful in
2 terms of thinking about, you know, putting some thought
3 process and some structure into this a little bit more,
4 more than -- and aligning it with our evaluation tool.

5 I do see that -- I mean, just that we -- on Gibson
6 Dunn we have this number 3 where it says, "Track record
7 of success of the 2010 CRC." And then that seems to me a
8 little bit to conflict with the last point, which is
9 mixed reviews from the 2010 CRC. And I'm not as -- maybe
10 as familiar with the mixed reviews as the two of you
11 since I wasn't on the Voting Rights Subcommittee, but my
12 understanding is that the focus of that work, Gibson
13 Dunn's work, was around the VRA.

14 I mean, certainly I -- from what I've heard from the
15 public, and read, and heard from the subcommittee, and
16 some of the articles that have been shared, but I'm not
17 so familiar with mixed reviews. And I don't know how
18 to -- or whether I should include that in our
19 deliberations, right; given that it's, as you say,
20 Commissioner Yee, "hearsay", or potentially hearsay,
21 because it's, you know, for lack of a better word.

22 And I'm not sure how the -- what their track record
23 of success was, because I believe there was that -- you
24 know, the funding issue that transpired.

25 With Strumwasser I think I certainly -- I think we

1 are taking their application very seriously. We have to.
2 That's our job. And certainly not discounting it for the
3 replacement, and the last-minute changes; and certainly,
4 as I've mentioned before, we could have just not allowed
5 any changes. We did make the decision to allow that and
6 give them the opportunity to do so.

7 But that does raise some questions about -- because
8 of the application, the way it was created, and the way
9 it ended up, it's not as -- you know, I'm still trying to
10 figure out how to think through the changes. Although I
11 agree that the replacement Counsel is a good substitute.

12 And then, there's the issue of transparency and
13 disclosure, which is critical to our work, and to public
14 trust, as you say. And you know, reading some of the
15 comments that came in last night about disclosures, you
16 know, certainly was -- and then is now posted, I believe,
17 on our website, or about to be; I mean, it very much
18 sounds like the 2010 Commission dealt with this public
19 disclosure issue in 2010, with Gibson Dunn, and again
20 now.

21 And I just wonder maybe that's a lesson to be --
22 lesson learned for the next Commission as -- and making
23 sure that we get it into our Lessons Learned Committee so
24 that the language in the RFI can be a little bit clearer
25 as to what we mean by "conflicts of interest", and

1 exactly what we want.

2 Because ultimately the question becomes: Were they
3 responsive to the RFI? I think the answer to that is
4 yes, for the most part. The RFI wasn't so clear. And
5 it's the same issue we had back in 2010 and up -- or the
6 same issue that the Commission had back in 2010.

7 Ultimately, even with those issues, the Commission
8 at that point, and I don't know the whole history, but it
9 sounds like even have after having dealt with that issue,
10 they still went forward with a contract with Gibson Dunn.
11 So I'm just -- and that, I don't know how to weigh that
12 either.

13 CHAIR YEE: Okay.

14 VICE CHAIR TOLEDO: So I'm still deliberating this,
15 as I know we're all kind of thinking through this
16 together.

17 CHAIR YEE: Okay.

18 VICE CHAIR TOLEDO: And so I appreciate you all for
19 entertaining me on this. Ultimately, I think both groups
20 are very strong. And the question that I have, and that
21 I ask myself, is which of -- how can we ensure -- and
22 it's really not about one or the other firm; it's really:
23 How can we ensure that the citizens of California, or the
24 Commission, have the legal representation in regard to
25 litigation, that they deserve, to ensure that the maps

1 that we create are properly defended in litigation, that
2 most likely will occur?

3 And so how do we make sure we have the best legal
4 representation we possibly can? And that, I think that's
5 the question we're -- the three of us are struggling with
6 right now, and trying to figure out, and decipher.

7 CHAIR YEE: Yes. Thank you. Track record of
8 success: I was thinking, specifically, you know, just
9 that the maps were successfully defended, right. And so
10 at the end of the day, with that firm and alongside
11 Morrison & Foerster, who is was not applying this time,
12 the Commission was successful, and the maps stood. So
13 mixed reviews that had more to do with how they got
14 there, I think; process, the actual experience working
15 together.

16 Let's see. On the negative here, we should probably
17 add then the -- so we've been talking about their
18 position in a current CVRA case, so --

19 VICE CHAIR TOLEDO: I would talk about it in terms
20 of values; and just alignment with the values of the
21 Commission, because that is the criteria in our scoring
22 sheet.

23 CHAIR YEE: I guess the value is not always aligned;
24 would that be fair?

25 VICE CHAIR TOLEDO: That is with regards -- yeah, I

1 think that -- I think that I understand what that means.
2 Because it is with regards to, you know, making sure that
3 everybody has a voice, right?

4 CHAIR YEE: Right.

5 VICE CHAIR TOLEDO: And then there's the question of
6 the H.R. 1.

7 VICE CHAIR SADHWANI: So actually -- can I jump in
8 on that, H.R. 1 because I actually --

9 VICE CHAIR TOLEDO: Please, absolutely, go right
10 ahead.

11 VICE CHAIR SADHWANI: I actually just sent an email
12 to Tina, our paralegal, just to confirm our process. And
13 so my understanding is that when we initially were
14 planning to hold these interviews back in March, we had,
15 indeed, sent the -- emailed the questions to all of the
16 applicants. Since that time, last week, we had updated
17 our questions, particularly including the H.R. 1, we
18 added the H.R. 1 component, if I remember correctly, at
19 that time.

20 Because previously that question had been about our
21 Independent Redistricting Commission is on fertile
22 ground -- or on constitutionally safe ground, given the
23 new Members of the Supreme Court. And we changed that to
24 actually have H.R. 1.

25 Tina just confirmed to me, that the updated

1 questions were only ever added to the website, and not
2 emailed to the applicants. So while we might suggest
3 that our applicants should have gone to our website and
4 checked for updated questions, or have, you know, been
5 following our process, you know, we didn't send it to the
6 applicants. Tina has confirmed that, that they were only
7 posted.

8 And so yes, they were posted, but previously we had
9 emailed that to everyone. So you know, I don't know if
10 there's a process component here that we want to think
11 about, but I -- and knowing that I would be cautious -- I
12 feel cautious in holding that against them, just given
13 that there was a slightly different process from March to
14 the actual interviews yesterday.

15 CHAIR YEE: Okay. Yeah, that's helpful. Yeah, I'm
16 trying to recall myself. I probably just shouldn't say,
17 unless I sit down and actually layout the sequence of
18 emails. At the same time, you know, H.R. 1 is big news.
19 So if, you know, anyone in this field is paying attention
20 to what's happening with H.R. 1; so a little surprising
21 there.

22 VICE CHAIR TOLEDO: I think in terms of how we think
23 about it, and how we weigh it, the response on this, you
24 know, if it wasn't public until -- and it wasn't sent out
25 to both firms, then we may not give it as much weight

1 as --

2 VICE CHAIR SADHWANI: Yeah.

3 VICE CHAIR TOLEDO: You know, as others -- as the
4 other questions that didn't change as much. And I think
5 that's just something for us to think about, we may or
6 may -- you know, I think ultimately I'm there with
7 Commissioner Yee in the sense of, H.R. 1 is in the public
8 limelight, in the newspapers. Those of us who are so --
9 very involved in the voting rights, and in redistricting
10 right now, we're following it very closely, as most of
11 our stakeholders.

12 But I also know that not everyone is following it as
13 closely as those of us who are in the middle of this
14 work, right. And maybe that doesn't speak so well for
15 Gibson Dunn, I don't know. I don't know.

16 VICE CHAIR SADHWANI: Yeah. The only thing, other
17 thing I would add, Commissioner Toledo, to your
18 discussion around the disclosures, I agree with you,
19 lesson learned, disclosures matter, we knew that they
20 mattered.

21 I don't -- and Commissioner Yee, please correct me
22 if I'm wrong, but you and I had done a number of
23 conversations and research thinking about how to
24 structure the RFIs for this process. And for me, the
25 resounding thing that we kept hearing, and I recall we

1 went back and looked for a letter that had been signed,
2 jointly, by NALEO, and Advancing Justice at that point,
3 APOC (ph.), and another organization representing
4 African-American interests in the state. I remember we
5 dug that up.

6 And the overwhelming component of our research was
7 really about Gibson's -- the problems of Gibson Dunn as
8 VRA Counsel, and that they didn't have the experience as
9 VRA Counsel.

10 I don't actually recall the disclosures piece. I
11 was very glad that the person -- you know, the public
12 comment came in with the 2011 news article around
13 disclosures. That didn't actually -- I don't believe --
14 I don't recall that being a prominent component of the
15 research that we had done in the set up. And given that
16 research, it's why we separated these two, so that we
17 could have one process just for VRA, and getting VRA
18 expertise.

19 And I think that we did that right. I mean,
20 notably, Gibson Dunn didn't even apply to be VRA Counsel;
21 and then a separate process for litigation.

22 You know, from the research we had done in advance
23 of writing to our RFIs, I don't remember disclosures
24 coming up as a huge issue. I remember it being a much
25 larger issue with line drawer, and the line drawer RFP.

1 I mean, we had talked about it at length because line
2 drawers have worked on projects that may come under VRA
3 scrutiny, and may have been litigated against.

4 So those disclosures were very important. I think
5 we spent a lot more time looking at disclosures of the
6 actual cases that had been litigated by the attorneys and
7 by the firms, as opposed to their personal financials.
8 And I think a part of that is recognizing that most of
9 that information is publicly available. And we did do
10 it.

11 You know, our paralegal did do a very extensive
12 search of all of the individuals, at least listed on all
13 of the teams. So I'm not entirely certain how to weigh
14 the disclosure piece. Many of the applicants who have
15 responded to our Conflict Of Interest reports that were
16 put together that said: Oh. I didn't know that you
17 wanted things outside of California. I didn't know that
18 you wanted us to also disclose things under \$2,000. We
19 never asked for that.

20 So I do think that there was a -- there's a little
21 bit of ambiguity there in terms of what we were asking
22 for. Certainly, you know, I think best practice is
23 always, disclose as much as possible, but I do think
24 there was some ambiguity in terms of how that RFI was
25 written in that part, unfortunately.

1 CHAIR YEE: Right. And yes, we did not make it a
2 big -- it was not a big topic of discussion when we were
3 working on the preparations for all this. I think we
4 just assumed that it was straightforward. You asked for
5 disclosures, these are lawyers, and you know what -- they
6 know what we're asking for, and they would simply provide
7 it. So it's a little bit -- you know, even if -- even
8 though the 2011 did have that one issue that was even
9 written up in the news, you know, we didn't anticipate
10 that it would be a big issue.

11 VICE CHAIR SADHWANI: Uh-huh.

12 CHAIR YEE: So I'm looking at the RFI language right
13 now and you know, I'm trying to identify: Well, where is
14 the ambiguity? I think it's potentially when we say,
15 "Disclose any financial, business, professional lobbying,
16 or other relationship that presents a potential
17 conflict." And so that's a judgment call. You know,
18 what presents a potential conflict?

19 We did not ask for any and all lobbying activity,
20 and even yesterday, the mention of the Kings Casino, I
21 think lobbying activity by Gibson Dunn. Yeah, they said
22 that was completely irrelevant to redistricting.

23 VICE CHAIR SADHWANI: Right.

24 CHAIR YEE: And so yeah --

25 VICE CHAIR SADHWANI: Yeah. And I think as Ms. Yang

1 from the Attorney General's Office pointed out to us
2 yesterday, Section 8252 of the Government Code is also
3 somewhat ambiguous as to, that's what applies to us, and
4 so to what extent are we actually asking for that to
5 apply to each applicant, you know, candidate for Federal
6 or State office in California, outside of California.
7 That's not entirely clear. So you know, I think there's
8 some room for interpretation.

9 VICE CHAIR TOLEDO: So maybe in terms of thinking
10 about this, the two applicants, I'm just maybe if we can
11 think about our options, right? And so our options would
12 be that we select -- that we recommend one firm to the
13 Full Commission, we also have the potential to just
14 elect -- to recommend -- it doesn't mean that they would
15 accept this, right. Because there is negotiated process
16 that happens later through the procurement process that
17 we'll be working through, that we, like, make a
18 recommendation of co-counsel on -- and maybe it's
19 breaking it up, you know, "pre" and "post" litigation.

20 We also have -- we can actually do co-counseling
21 anyway we want. Of course, that adds -- the cost of that
22 might be prohibitive, but maybe not, given the need to
23 do -- we're on a very constrained time line, as we all
24 know, because of the census delays. And we may need this
25 type of legal support. And we also have a lot more

1 complexity in the environment at this point, and very
2 likely to have litigation issues.

3 So it may be something that we may want to consider
4 some kind of co-counsel, one firm, or even recommending
5 more than one firm, for the Full Commission to make final
6 recommendation on. So recommending one firm, more than
7 one firm, or some kind of co-counsel arrangement? All of
8 that are things that we can consider at this point.

9 I believe, and Counsel can correct me if I'm wrong,
10 and so maybe we need to think through those things as
11 we -- I mean, my assessment is that -- and please correct
12 me if I'm wrong, Commissioners Sadhwani and Yee -- is
13 that for the most part we felt -- for different reasons
14 that these two firms could represent us well. And in
15 terms of the scoring, that they're about the same, more
16 or less.

17 So that's where we're at, and I think that's why
18 we're struggling so much, is because, yes, none of these
19 firms is perfect, and they each have their plusses and
20 minuses, as Commissioner Yee has nicely illustrated on
21 his document. And so it's thinking through our options,
22 and what we can do, and how we make sure that we have the
23 best representation for the Commission, and for the
24 citizens of California, and protecting our maps.

25 CHAIR YEE: Thank you. So are you thinking, for

1 instance, to have Strumwasser & Woocher & Becker, with us
2 now, and you know, starting soon and through the --
3 through to litigation? I don't know.

4 VICE CHAIR TOLEDO: So what I was thinking a lot of
5 the VRA work actually happens now, right. A lot of the
6 VRA work, in terms of some of the analysis, some of the
7 data analysis, that's what all the three -- for the most
8 part, that's the three firms that applied for VRA
9 mentioned.

10 And so Strumwasser will -- Strumwasser would start
11 off as we -- potentially, right, if they were chosen for
12 that. I don't know if -- after deliberations, but
13 certainly they are the front-runner at this point; would
14 probably be doing that work very, very soon with us in
15 the VRA capacity; and in helping with our litigation
16 strategy, and prevention strategy, litigation prevention
17 strategy as well.

18 I would think that we would need them very -- I
19 would think that we would need them more for the pre-
20 litigation. And then once we get into litigation, and
21 you need litigation support, and that's later in the
22 cycle. That's when it would be great to have more of
23 the, potentially, "hired guns" -- for lack of a better
24 word -- I hate using that term, but that's the term
25 that -- because I mean it does -- it rings true; and so

1 to defend the maps.

2 And potentially, maybe doing some work along the
3 line with us in "pre", because it's always good to have
4 more than one opinion, especially if it's a differing
5 opinion, and that's where, you know, having a firm that
6 has argued both sides of these issues might be good to
7 have in that capacity, and serving as devil's advocate,
8 potentially.

9 And maybe together these two firms are the stronger.
10 I'm not 100 percent sure how that would look like at this
11 point, if there is something that just -- it struck to me
12 that -- struck me that Strumwasser did a good job of
13 explaining why there needs to be pre-litigation work that
14 happens, and that seemed to be their strength.

15 Whereas, litigation seems to be the strength of --
16 the strength of Gibson Dunn, and the litigation strategy,
17 and actual -- you know, actual work of litigating the
18 case when it makes it into the court process.

19 CHAIR YEE: Right. That makes sense. But in fact,
20 you know, if we were to have Strumwasser as VRA and
21 Gibson Dunn, as litigation, in effect that is co-counsel,
22 I mean, functionally, just the two different phases, and
23 so --

24 VICE CHAIR TOLEDO: That is correct. And that's one
25 of the -- I think that's how, perhaps, you know, I think

1 that was really -- I was thinking through that as well,
2 and it doesn't -- you know, maybe, maybe in effect if we
3 are leaning to Strumwasser as VRA Counsel, and leaning
4 towards Gibson Dunn as Litigation Counsel, we can, as we
5 negotiate our contracts with the firms we ultimately go
6 on with, we can tighten up these scopes of work, to
7 really be clear what types of work that we would need
8 from them.

9 As well as our fee structure, because the fee
10 structure for Gibson Dunn is, you know, I think we all
11 agree it is -- it is not as -- probably needs to be
12 negotiated, I'll leave it at that, so that is -- and I
13 think they gave an opening for that, if we were to go in
14 that direction.

15 So there is -- we can work through a lot of these
16 details out as we go through a negotiated procurement
17 process, if we choose to go with having two firms
18 represent us rather than one. And I think that's the
19 direction that the VRA Subcommittee had, ultimately,
20 thought about, and maybe was leaning towards when we had
21 two RFIs.

22 VICE CHAIR SADHWANI: Uh-huh.

23 VICE CHAIR TOLEDO: That it might be good to have
24 two different firms with two different strengths, and
25 so -- although I think Strumwasser -- I assume

1 Strumwasser certainly does have a litigation background
2 as well, and from their application, and potentially,
3 could do the work on its -- by itself. But I just wonder
4 if it'd be stronger if we had two firms representing us.

5 CHAIR YEE: Sure.

6 VICE CHAIR TOLEDO: Or at least have a -- you know,
7 we always know that there's potential budget issues with
8 the State of California, and we're going to be --
9 Commissioner Sadhwani, and the Government Relations that
10 were going to be, and of course our Executive Director,
11 were going to be advocating for our budget. And we know
12 that we'll likely get that. But it's timing, and we
13 could end up in a situation where there's a gap, right,
14 for a short period of time, depending on the budget
15 cycle. And so it does worry me a little bit that Gibson
16 Dunn put a stop to the work last time around.

17 CHAIR YEE: Right.

18 VICE CHAIR TOLEDO: But I also understand their
19 business, and they want assurances that they're going to
20 get paid because --

21 CHAIR YEE: Well, it is possible though even if we
22 recommend them, and if we negotiate fees, and can come to
23 an agreement, you know, it's possible that that would be
24 the end of that. For the VRA Subcommittee that
25 brought -- that drew up the RFIs, I think it would be

1 true to say we were always open to either outcome. A
2 single firm doing both, or two different firms, and we
3 didn't really favor one over the other, at that time. We
4 have mentioned since then that, well, maybe actually two
5 different firms do bring a greater array of strengths.

6 I'm going to add one plus to Gibson Dunn, has been
7 on both sides, so you know, for litigation I can see how
8 that's a positive, right, you know how the other side
9 thinks, you've actually been on the other side.

10 It doesn't align with -- I mean me, if you pair that
11 up with the negative number 3, values not always align
12 with CRC and that, you know, which speaks to the issues
13 of public perception, public trust. The first call this
14 morning from Ms. Gold, you know, speaks to that. So
15 those are intention for sure.

16 VICE CHAIR SADHWANI: You know, I'll just add to
17 that. I think many of us are very supportive of the
18 concerns of plaintiffs in VRA cases, in other words, of
19 communities of color, of minority communities who,
20 historically, have faced discrimination. You know,
21 certainly I'm not speaking for the entire Commission on
22 that, but I do think that there's a general sense of
23 understanding that perspective, and supporting that
24 perspective.

25 For me, personally, it is a new step. And to be in

1 this role, as a Commission, as a governmental body, as is
2 the City of Santa Monica. And while I disagree with the
3 position that they're taking, they did need defense.

4 I think Angelo in his comment talked about this,
5 right, that the City of Santa Monica still had their
6 right to defend themselves as they saw fit.

7 I personally disagree with how they're handling
8 that. However, we as the Commission, also as a
9 governmental agency, will be in the posture of defense.
10 And I do -- you know, I am trying to just kind of work
11 that through that, right. That our values as the CRC; is
12 to uphold; is to uphold voting rights, and ultimately, I
13 assume that we will do that. I'm very hopeful that our
14 maps will be reflective of that, and ultimately whoever
15 our litigators are will need to defend what we've
16 established.

17 So from the perspective of defense, yeah; yes, from
18 a values perspective, it is complicated. But putting
19 ourselves now in this position of, we're a governmental
20 agency, and we're going to need to defend our actions.
21 And having a strong defensive litigator will -- could
22 serve us very well.

23 CHAIR YEE: Right. And you know, as we heard
24 yesterday, as we've mentioned today, we could be
25 challenged on anything.

1 VICE CHAIR SADHWANI: Right.

2 CHAIR YEE: Half jokingly yesterday: Could be
3 challenged on the wrong color of paper that was used for
4 some document. And it would not serve the cause of
5 voting rights well to be successfully challenged, you
6 know, on whatever, right?

7 VICE CHAIR SADHWANI: On procedure.

8 CHAIR YEE: On procedure.

9 VICE CHAIR SADHWANI: Or accessibility, or whatever.
10 Yeah. All of our -- are also part of our values, right?

11 CHAIR YEE: Right. It's hard because, you know, we
12 just don't know, right, what will happen, where we'll be
13 challenged, how much, and when, on what basis. And you
14 know, of course, the Commission always has the option of
15 bringing in additional counsel, changing its mind at any
16 time.

17 VICE CHAIR SADHWANI: Yeah.

18 CHAIR YEE: Firing one counsel, hiring another. Of
19 course, that's not frictionless. It's very high
20 friction, but yeah, we're not making a lifetime
21 commitment here.

22 VICE CHAIR SADHWANI: Yeah, right.

23 VICE CHAIR TOLEDO: I agree we're not making a
24 lifetime commitment, but we are in a very -- we will be
25 in a very time-constrained environment from the moment we

1 get the census data. So at the moment we are done with
2 our maps, and that's most of the fall. I mean, to think
3 about going back and -- but you may have to and that's
4 fine. And we figure out how to do it.

5 And doing an RFI, or doing another recruitment for
6 legal counsel at that point seems a little bit -- given
7 we're under time constraints that even the last
8 Commission didn't anticipate, and didn't have to deal
9 with. It seems a little bit difficult, and a challenge.
10 Of course, I mean we -- maybe, potentially, a lot or most
11 of this litigation may happen after the maps are drawn.
12 And potentially that could happen at that time, although
13 it's -- you know.

14 There's also the potential the Secretary of State
15 might be -- the Attorney General, rather, say the
16 Attorney General's Office might be able to defend as
17 well, right; and maybe not, but potentially.

18 CHAIR YEE: Maybe that's the situation with the 2010
19 Commission. At some point there was a hand-off from
20 retained counsel to the AG's Office.

21 VICE CHAIR TOLEDO: Uh-huh. And maybe there might
22 be some conversation with the AG's Office to come in
23 earlier and help sooner. And I mean, those are all
24 things that may happen, may not be able to happen, but
25 all things that we can -- to consider as we move forward

1 in this decision; and as we come up with a recommendation
2 for the Full Board.

3 VICE CHAIR SADHWANI: That's right. Just in terms
4 of that time crunch, and if we were to end up needing
5 additional support, I was just looking on the Strumwasser
6 & Woocher site, and I still feel very confident, and in
7 our, you know, selection of them as our recommendation
8 for VRA Counsel. But they do only have nine attorneys
9 listed as a -- well, they're just listed as professional
10 staff, so I'm assuming that they're attorneys. But yeah,
11 I think the total is nine.

12 If we were to get into a situation where there's,
13 you know, multiple litigation -- multiple challenges
14 coming all at one time, I think having a secondary co-
15 counsel would make a lot of sense, having a secondary
16 firm that we can rely upon, should we find ourselves in
17 that kind of situation, so that access to greater
18 resources.

19 CHAIR YEE: Yeah. Well, here we are. Let's think.
20 I'm thinking, why don't we take our break, and go a
21 little bit early? Come back, take any further public
22 comment, and then try to come up with a recommendation.

23 PUBLIC COMMENT MODERATOR: Chair?

24 VICE CHAIR TOLEDO: Is that a recommendation for
25 both VRA Counsel and Litigation Counsel? Or just

1 Litigation Counsel, or just thinking about --

2 CHAIR YEE: Both of them, yeah.

3 VICE CHAIR TOLEDO: Okay.

4 CHAIR YEE: Katy, was that you?

5 PUBLIC COMMENT MODERATOR: Yes, it was. I didn't
6 know if you were aware that someone had called in and was
7 sitting in the queue for public comment, as of now.

8 CHAIR YEE: Oh, okay. Let's go ahead and take that
9 call.

10 PUBLIC COMMENT MODERATOR: Okay. Do you want to go
11 through the whole process, or how does that work?

12 CHAIR YEE: I think we can just consider the
13 public --

14 PUBLIC COMMENT MODERATOR: Because we never really
15 closed it from before.

16 CHAIR YEE: Right, let's consider it the same
17 comment session, yeah.

18 PUBLIC COMMENT MODERATOR: All right. Perfect.
19 Okay. Well, then I will open her line. I recognize the
20 number. And your line is open.

21 MS. HUTCHISON: Hi. Good morning again. This is
22 Helen Hutchison from the League of Women Voters of
23 California calling again. And I just -- I have a
24 question for you to think about, in why you seem to be
25 hesitant to have the same firm for both jobs. The issue

1 last time with having the same firm was the lack of VRA
2 experience.

3 And you have a firm that has both VRA and litigation
4 experience. It seems like it could be more efficient,
5 particularly when one of the firms you're looking at
6 raises some flags about their own transparency, and the
7 commitment to the Commission's mission, kind of
8 regardless of the bottom line.

9 Thanks again. And I don't envy you this decision.

10 CHAIR YEE: Thank you, Ms. Hutchison. We appreciate
11 your attention. And it's an honor to represent you with
12 this decision.

13 MS. HUTCHISON: Yes.

14 CHAIR YEE: Yeah, I think our main consideration
15 with two firms is that, and that just in general, that
16 would represent a wider breadth of experience, and
17 skills, and resources, not specifically concerning the
18 VRA, which was an issue the first time. But we do know
19 that, yeah, one firm would be -- probably a more
20 efficient process to work with.

21 PUBLIC COMMENT MODERATOR: That was our only caller
22 at this time.

23 CHAIR YEE: Okay, very good. So why don't we take
24 our fifteen-minute break, from now until 11:00. We'll
25 come back, open public comment one last time, and then

1 hopefully discuss things towards a recommendation.

2 (Whereupon, a recess was held from 10:45 a.m.
3 until 11:00 a.m.)

4 CHAIR YEE: Thank you. Welcome back from break.

5 We continue with our discussion of the Selection of
6 Litigation Counsel. I believe we have three different
7 options, as I've thought about it.

8 The first two options: one is to select Gibson Dunn
9 as Litigation Counsel. The second option: Select
10 Strumwasser & Woocher & Becker, as Litigation Counsel
11 (sic). The third is, some idea of a co-counsel.

12 So I think that would mean if Strumwasser & Woocher,
13 Becker, is VRA Counsel, that they would do that, and be
14 retained for litigation as well. And then Gibson Dunn,
15 retained as Litigation Counsel, probably more active when
16 actual litigation -- if and when actual litigation takes
17 place.

18 I said we'd come back with public comment. I'm
19 wondering if we're ready for any kind of motion before we
20 do take public comments, so we can take public comment on
21 the motion specifically, as well as anything else.

22 VICE CHAIR SADHWANI: Well, I would be very willing
23 to support the third option. I think, you know, the
24 first or the third option either way. I think having
25 thought about -- I mean, I think my sense is that -- I

1 think we're all in the same -- in the same place with
2 Strumwasser & Woocher as our recommendation for VRA
3 Counsel.

4 Given that, I see them as, you know, playing a more
5 intimate role with the Commission. Currently, you know,
6 in the next couple of months, as well as through the line
7 drawing phase. So I think it can make sense for them to
8 also serve in that litigation capacity as well. But I do
9 very much like the idea of bringing on Gibson Dunn with
10 their vast resources, at minimum, as co-counsel, if not
11 as -- you know, assuming that they're open to negotiate
12 that, if not as our litigation.

13 CHAIR YEE: Yes. So on one hand, that would mean
14 additional costs, because you're using -- you're adding
15 co-counsel into the litigation phase. On the other hand,
16 perhaps offset by savings, by not having the more
17 expensive firm as active in the earlier work. I think
18 that's what we would anticipate.

19 VICE CHAIR SADHWANI: That's correct. And
20 ultimately it wouldn't be that different than -- it would
21 be a different set up than the 2010 Commission had, but
22 ultimately they did have two firms representing them, so
23 it's not, substantively, terribly different ten years
24 later. Some things, of course, will be different in
25 terms of cost. But I don't feel like there isn't a

1 precedent for this.

2 CHAIR YEE: Right. Commissioner Toledo, the co-
3 counsel idea, I think you initially floated that; any
4 further thoughts on that?

5 VICE CHAIR TOLEDO: Yeah. My thought is if we did
6 go with the co-counsel for litigation, that we'd have to
7 be very -- we'd have to craft the scope of work,
8 especially for Strumwasser so that -- because there will
9 be -- there would be overlap if they were both VRA and
10 litigation. And so that should be taken into
11 consideration.

12 I mean, ultimately, there may be a way to -- if we
13 did do co-counsel, to think through -- you know, if it is
14 two contracts expanding the VRA Counsel's scope somewhat
15 through the negotiated process to include this co-counsel
16 type work. And then doing the Litigation Counsel -- co-
17 counsel as well, agreement with Gibson Dunn, and making
18 it very clear that they would be working with Strum if
19 that's -- Strumwasser, if that's who we go with as co-
20 counsel.

21 And what that means, right, I think we have to -- we
22 would have to work through that process of figuring out,
23 concretely, what that means when each of their firms
24 would be needed, in what capacities, that sort of thing.
25 So I think if we go down that route, which I think might

1 be the most -- the more, I mean, strategic -- for lack of
2 a better word -- because we're preparing for litigation,
3 right.

4 If we go down that route, then we'd have to make
5 sure that we have a very solid negotiating process with
6 both of these firms. And ultimately, as you cited,
7 Commissioner Yee, a couple of minutes ago, one or both of
8 these firms may not want to do that. They ultimately
9 would have the ability to say: No. We applied to be
10 counsel, or the Litigation Counsel, not co-Litigation
11 Counsel, or the you know -- and that's ultimately, you
12 know, that happens in any negotiation, and we should
13 just -- so those are my thoughts.

14 CHAIR YEE: Very good.

15 VICE CHAIR TOLEDO: I'd be curious to hear your
16 thoughts, Commissioner Yee.

17 CHAIR YEE: Yeah.

18 VICE CHAIR TOLEDO: As to where you are in terms of
19 thinking through this, because I know it's a very
20 difficult decision, and I know the public trust issue
21 has -- is weighing heavily on all of us. And I think --
22 especially with Gibson Dunn, and the disclosure issues,
23 and just making sure that we're all comfortable with
24 that.

25 CHAIR YEE: Right. Sure. I'll share my thoughts.

1 So first to say on that point, now that we are continuing
2 to consider Gibson Dunn at all, I want to assure the
3 public that we have heard loud and clear your concerns.
4 The disclosure matters. We have identified, I think, the
5 point in -- the point of -- in the original RFI that's
6 not -- that is subject to interpretation.

7 And we certainly understand and respect those who
8 interpret it to mean that ultimately there were things
9 that should have been disclosed that were not, but we see
10 some room for interpretation that says: We did not ask
11 for all disclosures, and that what was disclosed was
12 adequate. But we understand that point and you know,
13 certainly, to lean towards more disclosure, generally,
14 would be a good thing. So we understand that, and are
15 considering that.

16 And we also hear loud and clear the consideration
17 that Gibson Dunn has been on both sides; is currently on
18 a side that the Commission would probably disagree with,
19 by and large, given its mission and values. And yet at
20 the same time, we recognize that this is what lawyers do.
21 They represent people, and they provide representation
22 for people.

23 And on one hand, there certainly is a public trust,
24 and confidence value in working with whomever we work
25 with, sharing our values. We also see that when it comes

1 to counsel, that there could be value in having someone
2 who's been on both sides, you know, and could defend our
3 maps, and ultimately defend our values by defending our
4 maps successfully.

5 So in terms of the three options -- so that's, I
6 just want to assure the public that all views have been
7 heard loud and clear, and we are not glossing over any of
8 those considerations.

9 I like the co-counsel idea, partly, of course it's
10 easier to not have to make a hard choice between the two.
11 I still do value. And one of the big reasons, yesterday
12 I was in favor -- I was leaning towards Strumwasser, it's
13 because I did see value, a high value in having one firm
14 involved in both phases, and the greater efficiency, the
15 defensive strategy alignment, just dealing with, you
16 know, one set of people rather than two; and in all
17 seemed to be important to me.

18 On the other hand, I have heard the arguments today.
19 That and everyone has warned us, you know, we will
20 probably face -- we will not only face litigation, we'll
21 probably face more, and more diverse litigation this time
22 around than 2010 did.

23 It's a more heated political environment, you know,
24 than even 2010, although it was certainly heated. That
25 was the era of the rise of the Tea Party, and so forth.

1 But yeah, you know, we are doing more. You know, we will
2 have probably twice as much time to be active on this
3 Commission than the 2010 the Commission was active. And
4 so that gives people more time, if they don't like us.

5 So I hear loud and clear just the very strong
6 consideration of wanting to have the "biggest guns" on
7 our side, and not on somebody else's side opposing us.
8 The idea of having co-counsel, of needing to go back and
9 craft very careful statements of work, and to negotiate
10 timing, that sounds like a lot of meetings which would
11 involve us, which is fine.

12 You know, it's going to be more work. Probably more
13 work than just hiring one or the other, but ultimately,
14 it serves our purpose as well if we do that work well,
15 and it can bring these strengths of both options together
16 and have benefit from both.

17 VICE CHAIR TOLEDO: And to that point, I think that
18 would be -- it would be on us to make sure that we
19 managed counsel well, right, as in our Chief Counsel and
20 executive team, to make sure that we're managing the
21 counsel, and their time, and their -- ultimately I would
22 expect that both firms, if we move it down in this
23 direction, they, in their collaboration section of their
24 interview questions, they spoke to their willingness to
25 collaborate and to work well with staff, and with other

1 counsel.

2 And so when it came to VRA Counsel and other
3 situations, so I would hope that they would do that. But
4 ultimately it falls on us to manage our legal work and
5 make sure that it's happening, and it's happening in the
6 most efficient manner, but also in the manner that best
7 protects our work.

8 CHAIR YEE: Right. And in our comments about, you
9 know, "bigger guns" and such, and I don't want to imply
10 that Strumwasser is not a full-sized --

11 VICE CHAIR TOLEDO: Certainly.

12 CHAIR YEE: -- litigation firm with, you know, top-
13 level litigation experience, and personnel. But as we
14 look at the landscape, of course, they're not the only
15 ones. And so the question is: How to position ourselves
16 on that landscape given all the different players out
17 there.

18 Okay. I just want to make sure then, if we do lean
19 towards the -- if we are leaning towards the co-counsel
20 option, that it does bring actual greater value, it's not
21 simply a way of splitting the difference and not having
22 to make a hard choice. Are we thinking it does bring
23 actual value to the Commission and greater probability of
24 our ultimate success to have them both retained in this
25 way?

1 So this would be Strumwasser for VRA Counsel, and
2 then Strumwasser for Litigation Counsel, focusing more on
3 the pre-liti -- no, I shouldn't say that. Strumwasser as
4 Litigation Counsel, and then Gibson Dunn as -- Litigation
5 Co-Counsel, and then Gibson as Litigation Co-Counsel
6 focusing more on the actual litigation phase.

7 VICE CHAIR TOLEDO: And I would just make, if we
8 moved down this direction maybe we can think through
9 this. It may be that I just think about these as two
10 separate processes, and I think you just did that with
11 the VRA Counsel being selected and then -- and then in
12 the case of Litigation Counsel, that we could make a
13 recommendation to the Full Commission for co-counsel.
14 And then we worked out the details of the scope of work
15 through the negotiated process, in the procurement
16 process.

17 Because ultimately there will be -- I actually don't
18 think this will be your choice, I might this might be the
19 more complex choice, if we're going to have to -- at
20 least for the Commission, right, we're going to have to,
21 very concretely, decide.

22 And this goes back to Commissioner Sadhwani's point,
23 and during the interview process, what is it that we need
24 from our Litigation Counsel? What is it that we need
25 from the VRA Counsel? When do we need it? How do we --

1 do we either get -- and we really need to think through,
2 as a Commission, what our legal needs will be, and that
3 we get -- and that during this procurement process,
4 trying to get adequate representation for all those
5 phases.

6 And it may be that one or the other may be needed at
7 certain points, and they should be at least be accessible
8 to us should we have that -- should the need be there,
9 should the need arise. So I think that that would happen
10 through that process, where we are negotiating the fee
11 structure, negotiating the scope, negotiating all of the
12 aspects of this procurement process of this RFI, and
13 coming up with a contract.

14 CHAIR YEE: Sure. I think I'd like to -- in the
15 moment, I think I'd like to ask Executive Director
16 Hernandez for any thoughts he may have on this option of
17 co-counsel. I think in my mind I'm -- and you know, what
18 I was thinking was, I think it might be important to have
19 a more formal commitment to phasing, and to have Gibson
20 Dunn more involved later as a way of reassuring the
21 public that we're not just doubling counsel, right.

22 Although, you know, as we continue in our
23 deliberations maybe we -- maybe this is not the time to
24 commit ourselves to how much counsel to have around at
25 which phases, because we really don't know. I mean,

1 tomorrow we could be sued about something, you know, that
2 is big, for all we know.

3 VICE CHAIR TOLEDO: I can see a situation where we
4 say what our intent is right. As the subcommittee, our
5 intent is to identify the firm that will help with the
6 pre-litigation phase, and the litigation phase, and any
7 intermediary phases that might exist. But ultimately, I
8 think the Full Commission will need to weigh in on all of
9 this, given that it is the biggest one if not -- one of
10 the biggest if not the biggest spend for the Commission.

11 CHAIR YEE: Right.

12 VICE CHAIR TOLEDO: And I don't know if we've had an
13 opportunity to talk about all of these phases as a Full
14 Commission, and what it looks like. And maybe it may
15 behoove us as the Legal Affairs Committee, to bring a
16 recommendation to the group on the various phases, and
17 what that might look like through this procurement
18 process.

19 And so to begin the conversation, and to do it
20 through this procurement process or to -- and I'm not
21 sure whether to do it through this procurement process,
22 or to do it as a separate strategic planning business
23 discussion. But both are aligned and I can see them
24 going, either doing it through this process, or doing it
25 parallel to the process. But I think we'll need that to

1 happen. Either we do it here, or we do it with the Full
2 Commission, and can get feedback from them, and then full
3 support for it.

4 CHAIR YEE: Right. Yes. Okay. Director Hernandez,
5 any thoughts you have on this, or on anything, including
6 this option?

7 DIRECTOR HERNANDEZ: It's an interesting option.
8 You know, my concern is how do we separate their
9 activities, if we're going to separate their activities,
10 you know, from the litigation side, you know, when does
11 one start, when does one end, and how do they blend in
12 essence? So that that is something that we still haven't
13 figured out.

14 I totally agree with Commissioner Toledo that the
15 phases, as we move forward, really have to be clear to
16 the Commission as well as to how -- because that helps us
17 identify where we need the counsel most. Once we've
18 identified those areas. I know for the VRA, obviously
19 the public input, that area is what I'm thinking that
20 would be most helpful in that area, the line drawing as
21 well.

22 But there's that overlap that we're talking about
23 that we may have for that litigation piece, that they
24 need to be involved, aware somehow in that part of the --
25 or in one of those phases.

1 So that's my concern with all of this. I do like
2 the idea of having both. It makes complete sense. We
3 just need to be clear on their roles, and when they are
4 involved separately or together.

5 CHAIR YEE: In terms of budget impact, your thoughts
6 on?

7 DIRECTOR HERNANDEZ: Oh, well. That we still have
8 to discuss that further, because I think, you know, some
9 of the budget allocations were for post-maps, the
10 litigation part of it. And so if there's any litigation
11 prior to the maps, that's something that we haven't
12 really discussed or considered how we're going to do
13 that. So there's definitely some budget implications
14 that we need to discuss further, and figure out, and make
15 sure that we have the budgeting for those pieces.

16 CHAIR YEE: Right. And just to emphasize the point,
17 you know, our decision today is not the last decision to
18 be made in this matter. There are plenty of other points
19 at which things could take a turn before we actually have
20 counsel in place so -- this counsel in place.

21 VICE CHAIR TOLEDO: And I do think that as we go
22 through, and as Director Hernandez pointed out, as we go
23 through and we figure out where when we meet the
24 attorney -- the attorneys of the firms, and think through
25 our time line, and our strategy, we'll have a better

1 sense of cost, right?

2 How much it's going to cost to do pre-litigation
3 work? Who is involved in that? And I would think it's
4 the VRA Counsel, but potentially some Litigation Counsel
5 as well. And then, through the line drawing phase,
6 through the post-submission phase, you know, and
7 defending our maps phase. And so I think there needs to
8 be some work on just clarifying what the need is for all
9 of those phases. And then at that point we can do some
10 estimates knowing that estimates have a way of changing
11 depending on circumstance, and the actual facts, and
12 when -- and the environment.

13 But we can do our best guess, best educated guess on
14 all of these things and come up with a budget that is
15 aligned with our overarching budget, and aligned with the
16 allocations that we've received. And if needed, we may
17 need to adjust, and given the constrained -- time
18 constraints, and ensure that we have sufficient resources
19 to do this work.

20 Because it is very important work, defending our
21 maps, it's critical to protecting the rights of
22 Californians, and the Commission, and the future work of
23 the Commissions. I see this as an investment in the
24 future of the Commission in California, and the voting
25 rights of Californians.

1 CHAIR YEE: Absolutely. And there's no question
2 that we, ourselves, benefit immensely from the success of
3 the 2010 Commission.

4 VICE CHAIR TOLEDO: Absolutely.

5 CHAIR YEE: Yeah. And it could -- would be such a
6 different story otherwise. Yeah. And so that's
7 definitely something, a legacy we would want to leave the
8 2030 Commission.

9 Okay. I think I'm ready to make a motion. Okay. I
10 move that we recommend Strumwasser & Woocher, Becker, our
11 VRA Counsel and Litigation Co-Counsel. And that we
12 recommend Gibson Dunn as Litigation Co-Counsel.

13 VICE CHAIR TOLEDO: So just a clarifying point, and
14 maybe a procedural question for Ms. Yang. Should we,
15 because they are two separate RFIs, I wonder if we should
16 do two separate motions here, or whether we can blend the
17 two? Your motion seems to blend the two.

18 CHAIR YEE: Yes.

19 VICE CHAIR TOLEDO: So I just want some
20 clarification from Ms. Yang.

21 ATTORNEY YANG: It's at the pleasure of the
22 Committee. I think two separate motions would be
23 clearer, especially for the public, if they want to make
24 any comments before the Committee votes to approve that
25 recommendation.

1 CHAIR YEE: Can we make the two separate motions
2 concurrently?

3 ATTORNEY YANG: Yes.

4 CHAIR YEE: Okay. Then I'll withdraw the initial
5 motion. I'll make two motions.

6 The first motion is to recommend Strumwasser &
7 Woocher, Becker, our VRA Counsel.

8 The second motion is to recommend Gibson Dunn and
9 Strumwasser & Woocher, Becker as Co-Counsels.

10 I'm going to stop this screen share.

11 VICE CHAIR TOLEDO: I totally forgot about the
12 screen share. I'm just looking at you guys.

13 VICE CHAIR SADHWANI: I'll second the motion.

14 CHAIR YEE: Okay. Let's go ahead and go to public
15 comment. And I apologize to the public that the
16 previously announced public comment opening was late.

17 PUBLIC COMMENT MODERATOR: Okay. In order to
18 maximize transparency and public participation in our
19 process, the Commissioners will be taking public comment
20 by phone. To call in, dial the telephone number provided
21 on the live stream feed. It is 877-853-5247. When
22 prompted, enter the meeting ID number on the live stream
23 feed, it is 93564446340. When prompted to enter a
24 participant ID, simply press the pound key.

25 Once you have dialed in, you will be placed in a

1 queue. To indicate you wish to comment, please press
2 star 9. This will raise your hand for the moderator.
3 When it is your turn to speak, you will hear a message
4 that says: The host would like you to talk, and to press
5 star 6 to speak. If you would like to give your name,
6 please state and spell it for the record. You are not
7 required to provide your name to give public comment.

8 Please make sure to mute your computer or live
9 stream audio to prevent any feedback or distortion during
10 your call. Once you are waiting in the queue, be alert
11 for when it is your turn to speak. And again, please
12 turn down the live stream volume.

13 And the Legal Affairs Committee is taking public
14 comment on the two motions regarding VRA Counsel, and
15 Litigation Co-Counsel.

16 And we do have someone in the queue with their hand
17 raised. And the floor is yours.

18 MS. REED: Thank you so much. Hi. This is Rene
19 Reed again. I would absolutely agree with Commissioner
20 Toledo's comment that the RFI had ambiguities, and that
21 is a lesson learned. I would also agree with
22 Commissioner Sadhwani that there were some contributions
23 where applicants may not have known what you wanted.

24 I do not believe, however, that there is any
25 ambiguity as to the issue I called about yesterday. The

1 RFI explicitly asks for donations by a firm political
2 action committee.

3 It says, quote, "Identify any political
4 contributions, including contributions made by
5 a firm political action committees to
6 candidates as described in California
7 Government Code Section 8252, during the past
8 ten years."

9 Government Code 8252 says, quote:

10 "Contributed \$2,000 or more to any
11 Congressional, State, or Local candidate for
12 elective public office in any year" --

13 With respect to the Attorney General, California law
14 is clear what that sentence means. 8252 is clarified by
15 Government Regulation 60814 which says, quote:

16 "Congressional candidate for elective public
17 office means any candidate for the office of
18 Senator or Representative in the Congress of
19 the United States elected from California."

20 And there is no ambiguity that Gibson Dunn gave
21 contributions greater than \$2,000 to California
22 Congressional candidates in the last ten years. It is up
23 to the committee what weight to give that fact. But in
24 giving your recommendation to the Full Commission, it
25 would be factually inaccurate to say a recommendation of

1 Gibson Dunn was based on ambiguity of what to disclose.
2 Rather, it would be a decision to recommend them despite
3 failing to disclose.

4 Finally, deviating from the facts to a personal
5 opinion, I sympathize with Commissioners feeling a bit
6 stuck because they did not know earlier nondisclosures
7 were important ten years ago, though I have been trying.
8 I am far less sympathetic to Gibson Dunn, who did bid ten
9 years ago, did know how important it was, and clearly
10 failed in their firm's Lessons Learned.

11 Thank you so much again for your time.

12 CHAIR YEE: Thank you, Ms. Reed. We appreciate your
13 exactness and your documentation. It is something I will
14 be considering as we bring this to the Full Commission.

15 PUBLIC COMMENT MODERATOR: And that was it for our
16 callers at this time.

17 CHAIR YEE: We'll give a little more time for calls
18 and for any other discussion by Commissioners.

19 To the caller's point, and just to reiterate, I am
20 still firm and confident that our ultimate goal, shared
21 goal, is the success of our work as the CRC with all our
22 values intact. And so I just want to affirm that.

23 If there's no other discussion, I believe we can
24 take a vote.

25 And if Director Hernandez, you would do that for us?

1 VICE CHAIR TOLEDO: Can I just say one thing before
2 we go to vote?

3 CHAIR YEE: Sure.

4 VICE CHAIR TOLEDO: And that's, and I'm sorry about
5 that. Just to the caller's point, I think full
6 disclosure is what we want. And ultimately, the Full
7 Commission will need to vote on those recommendations
8 moving forward. And if there was a failure to disclose,
9 which -- or ambiguity, perhaps this is the time for us,
10 through our reference checks, and through this other
11 process that will be happening once we make a decision on
12 recommendation, to ask all of our firms that we select
13 through this process, to ensure that they're
14 recommending -- that they're providing us with full
15 disclosure, as was required under the RFI, and
16 highlighting those sections that were highlighted by
17 the -- highlighted by the caller, especially because
18 disclosure would -- disclosure prior to a decision on the
19 contract.

20 Because we're not making a decision here, we're
21 merely making a recommendation. And so disclosure prior
22 to the full -- to a decision would, in my mind, help to
23 remedy a nondisclosure situation, if it was inadvertent,
24 or otherwise.

25 CHAIR YEE: Sure. I mean, yes. That would

1 certainly be helpful, although I understand the caller's
2 point that, you know, this came up before. It's been ten
3 years. It's not -- and so forth, so.

4 VICE CHAIR TOLEDO: I understand the caller's point
5 as well, and I'm just thinking, it's giving both firms an
6 opportunity to -- that we select for recommendation, an
7 opportunity to disclose, and really highlighting those
8 sections of exactly what we're looking for. What
9 actually specifically was in the RFI, and the sections
10 highlighted by the caller, in case there's additional
11 disclosures that that are warranted.

12 And I believe Gibson Dunn did, in their presentation
13 ask, you know, those specific follow-up questions with
14 regards to disclosure that we follow up with them; if I
15 remember correctly.

16 CHAIR YEE: Yes. That's right.

17 VICE CHAIR TOLEDO: I mean, being very, very clear.
18 I mean, I think they made the opening to allow for that.
19 And I would hope that they would be forthright, and if
20 they aren't during the process, then the Full Commission
21 at the time of making a decision can certainly weigh that
22 into their deliberations, our deliberations, and in
23 making the final decision.

24 CHAIR YEE: Right. I think we can, can we, say, we
25 promise to caller that we will investigate the matter

1 further, and report publicly what we find?

2 VICE CHAIR TOLEDO: I think I'm committed to doing
3 that, and I think if the three of us are committed to
4 working with Staff to make sure that that section of
5 RFIs, highlighted the sections that she brought up as
6 well, and our expectations for full disclosure, and that
7 that will be considered by the Full Commission at the
8 time of adoption, when the Full Commission considers it.

9 I am confident that the Full Commission will -- this
10 is an issue that is critical and important to the Full
11 Commission. Public trust is something that none of us
12 want to -- that none of us take lightly, and that all of
13 us want to ensure that we are able to maintain.

14 CHAIR YEE: Absolutely.

15 VICE CHAIR SADHWANI: And before we move to a vote.
16 Can I also ask, Commissioner Toledo, you mentioned
17 reference checks, which do need to be done; is it our
18 intention to do reference checks prior? Like make our
19 recommendation today pending reference checks; and that
20 we have reference checks done between now and the time of
21 the next meeting of the Full Commission? Or would we
22 wait until after the next meeting of the Full Commission?
23 How would we like to handle that? I just want to make
24 sure that I'm clear before we take a vote.

25 CHAIR YEE: Right. Well, the next meeting is the

1 29th. That's five days, including the weekend. But what
2 do we think is possible? I have not been involved in the
3 reference checks the Commission has done earlier for
4 other positions. I don't know how that goes.

5 VICE CHAIR TOLEDO: Commissioner Sadhwani and I have
6 done reference checks, and we can also work with you and
7 the Staff to do them, because we've done them for other
8 positions and other processes.

9 CHAIR YEE: Does five days adequate?

10 VICE CHAIR TOLEDO: It depends on responsiveness.
11 So it really depends on whether the references are
12 available to, you know -- if they're not on vacation, if
13 they're not -- you know, that sort of thing, if they have
14 the time to meet with us. But usually they can be done
15 pretty quickly.

16 VICE CHAIR SADHWANI: Uh-huh. I think what might be
17 helpful, for the line drawer, we certainly had a long
18 list of references to check. What was helpful is that
19 they knew that they were coming. So if we wanted to get
20 them done before Monday, I think assuming that we're
21 affirmative on this vote, that Staff contact the
22 applicants today to let them know of where we are at in
23 the process, and that we do intend to contact their
24 references over the next couple of days, and please ask
25 them to be available.

1 And I think one of the things, at least, these days
2 is people get so much spam phone calls that they don't
3 answer, and they need to call back. But so just if the
4 applicants themselves can let them -- let their
5 references know to expect our call, it's helpful.

6 CHAIR YEE: Sure.

7 VICE CHAIR TOLEDO: I think this is also, you know,
8 just in terms of making the process very transparent to
9 the public letting -- you know, I think it's important to
10 remind the public that there is an opportunity, still, to
11 be able to provide feedback to the Full Commission prior
12 to a final decision on any of these candidates and --
13 and/or our thought process around co-counsel as well.

14 You know, a decision today for recommendation
15 doesn't preclude any further public comment. And in
16 fact, we take public comment -- the Full Commission takes
17 public comment very seriously. And we would do so -- we
18 would continue to do so as we move through this journey
19 of hiring appropriate legal counsel for the Commission.

20 CHAIR YEE: Okay. So the public can expect to hear
21 at the March 29th meeting, our report back on references,
22 and also follow up to these questions of disclosures,
23 especially about PAC donations.

24 With that, are we ready for a vote?

25 VICE CHAIR TOLEDO: (No verbal response)

1 CHAIR YEE: Okay. Director Hernandez.

2 DIRECTOR HERNANDEZ: Okay. We'll start with the
3 first motion, which is a recommendation for Strumwasser
4 for VRA Counsel.

5 Commissioner Sadhwani.

6 VICE CHAIR SADHWANI: Yes.

7 DIRECTOR HERNANDEZ: Commissioner Toledo.

8 VICE CHAIR TOLEDO: Yes.

9 DIRECTOR HERNANDEZ: Commissioner Yee.

10 CHAIR YEE: Yes.

11 DIRECTOR HERNANDEZ: That motion passes.

12 Now we will entertain motion number 2, which is
13 Gibson and Dunn (sic), and Strumwasser as Co-Counsel
14 (sic).

15 DIRECTOR HERNANDEZ: Commissioner Sadhwani.

16 VICE CHAIR SADHWANI: Yes.

17 DIRECTOR HERNANDEZ: Commissioner Toledo.

18 VICE CHAIR TOLEDO: Yes.

19 DIRECTOR HERNANDEZ: And Commissioner Yee.

20 CHAIR YEE: Yes. Co-counsel for the Litigation
21 Counsel.

22 DIRECTOR HERNANDEZ: Yes. I'm sorry for Litigation
23 Counsel. I apologize.

24 CHAIR YEE: Yes.

25 DIRECTOR HERNANDEZ: The motions pass, both.

1 CHAIR YEE: Thank you, everyone. Well, we have some
2 homework to do, still. Perhaps we should make some --
3 while we have each other right here, why don't we make
4 some plans for that? So the reference checks and the PAC
5 matter.

6 Since you two have experience with reference checks,
7 perhaps to have you each -- or maybe one of you work on
8 one of the firms, and then one on the other, and then I
9 can work on the PAC matter.

10 VICE CHAIR TOLEDO: I think that works well. In the
11 past, we've also standardized our reference questions, or
12 reference checks questions. So I'm not sure if we want
13 to do that now, you know, or later today through this
14 process, to have Staff send us, you know, standardized
15 reference check questions that were used by the 2010
16 Commission. But given that it is a public process, we
17 may want to just standardize our questions for reference
18 checks as well.

19 VICE CHAIR SADHWANI: It also occurred to me, I
20 actually don't believe that most of the references have
21 contact information on them, because these are public
22 documents. So we might need to ask Tina just to get
23 involved in contacting the applicants to get that
24 information, so that we can make the phone calls as well.

25 VICE CHAIR TOLEDO: So in terms of -- in terms of

1 just finalizing the reference -- you know, coming up with
2 our reference check questions, I don't know if we want to
3 take some time today to go over those questions, and to
4 standardize them, and make sure we have all of the
5 questions we want answered through that process.

6 Because I do know it's almost 12 o'clock, but I'm
7 not sure if -- I'm fairly certain that this may have to
8 be done in public session. So maybe we can ask
9 Deborah -- or Ms. Yang to weigh in on whether we can come
10 up with reference check questions outside of public
11 session.

12 CHAIR YEE: We actually have until 12:30.

13 VICE CHAIR TOLEDO: Oh. We have until 12:30, okay.
14 So we have some time, if we need it.

15 CHAIR YEE: Ms. Yang, any thoughts on this?

16 ATTORNEY YANG: So the question is whether or not
17 the Committee may come up with reference check questions
18 outside of a public meeting?

19 VICE CHAIR SADHWANI: Or if we could delegate it to
20 staff to develop the questions or to coordinate our
21 input.

22 ATTORNEY YANG: It can avoid --

23 VICE CHAIR TOLEDO: I'm curious if that would be --
24 whether it needs to happen in public session.

25 ATTORNEY YANG: Right. And like, I'm sure I think

1 it needs to be in public session, but it would bring
2 transparency if the reference questions were posted on
3 the website.

4 VICE CHAIR TOLEDO: So if we can get staff to come
5 up with -- to send us some questions and we post it,
6 would that be sufficient to meet the public transparency
7 requirements, or exceed the requirements?

8 ATTORNEY YANG: So it depends on the level of
9 involvement with the committees, so if it's simply a
10 delegation to Staff to write the reference questions, and
11 conduct the references; that might be fine. But if this
12 is something that the Committee is going to have a back
13 and forth with Staff about, and then the Committee wants
14 to discuss amongst each other -- with each other, then
15 yes, it would need to be a public meeting format.

16 VICE CHAIR SADHWANI: My sense is work -- I feel
17 very comfortable working through Staff for this, although
18 I know Alvaro has a lot on his plate. I just think
19 drafting the questions can be somewhat -- somewhat
20 tedious. I don't mean to say that I'm unwilling to do
21 it, I'm absolutely willing to do it.

22 But I think what you get out of it is, typically,
23 people who are listed as your references are going to say
24 glowing things about you, in any case, so I -- for me
25 personally, I would feel very comfortable delegating to

1 Staff to develop this a standard set of questions that we
2 would use. And that could be posted. But I'm certainly
3 open to doing it now if we really feel the need to.

4 CHAIR YEE: I mean, we've raised in several areas,
5 generally, several avenues of inquiry in our discussions.
6 I mean, do we want to just quickly list those right now
7 to have a sense of what we want to cover?

8 VICE CHAIR TOLEDO: You know, list the areas, and
9 then like the staff can just elaborate on those, and put
10 them into questions -- you know, finalize the questions.

11 CHAIR YEE: Right. So experience working with the
12 candidate, the ability to do --

13 DIRECTOR HERNANDEZ: A quick question -- I'm sorry;
14 just a quick question for clarification.

15 CHAIR YEE: Uh-huh.

16 DIRECTOR HERNANDEZ: So in the reference checks, are
17 we doing reference checks on each one of the team
18 members, or is it as a whole?

19 CHAIR YEE: Reference is provided, I believe were
20 one set for each firm.

21 DIRECTOR HERNANDEZ: Okay. Thank you.

22 CHAIR YEE: Yeah, three, four, five references for
23 each firm.

24 VICE CHAIR TOLEDO: Although, I think Alvaro raises
25 a -- or Director Hernandez raises a great question.

1 Should we do references on the leads? Like on the lead,
2 yeah, because every firm has a lead, one or two, and --
3 although, it may not make a difference, right?

4 CHAIR YEE: Yeah.

5 VICE CHAIR TOLEDO: Because as Commissioner Sadhwani
6 rightly pointed out, you know, we've done many of these
7 and not had one situation where they haven't been
8 glowing. It's important to do these for just -- for
9 assurances.

10 CHAIR YEE: Yeah, we didn't -- I don't believe we
11 asked for it. I'm not seeing references for individual
12 personnel. Yeah.

13 VICE CHAIR SADHWANI: I think the other question
14 also, when we -- and it's not on the top of my mind --
15 when we received the information amending the Strumwasser
16 Woocher application to include David Becker, did that
17 include a reference for him, or references? I wonder if
18 that was updated.

19 CHAIR YEE: I'm looking right now. No, I'm not
20 seeing any additional references in the cover letter on
21 the attached resume. Although I'm sure there're plenty
22 of folks around, so.

23 VICE CHAIR SADHWANI: Okay. So it sounds like we
24 need to ask for a reference then for Becker.

25 CHAIR YEE: Okay.

1 VICE CHAIR SADHWANI: Or for them, if they have any
2 updates, at least given the amendment to their
3 application.

4 CHAIR YEE: Right. So that's the areas to inquire.
5 So experience working with the candidate; and what else?
6 I mean, it kind of depends who the reference is: Is it a
7 former a colleague; or a former client?

8 VICE CHAIR SADHWANI: Well, I think you should also
9 include the competency of the legal counsel, right?

10 CHAIR YEE: Yeah. Yeah.

11 VICE CHAIR SADHWANI: Was the legal advice given,
12 actually -- you know.

13 CHAIR YEE: Yeah, so the quality of legal advice.

14 VICE CHAIR SADHWANI: Yeah. Some of the other
15 issues that have come up that we've discussed is
16 resources of the firms, since this is -- these are
17 references that are kind of generally for the full
18 package. Were there any issues regarding the resources
19 once it came to actual litigation? Essentially, I think
20 something asking around that might be helpful.

21 CHAIR YEE: Uh-huh. Yeah, and something about fees?

22 VICE CHAIR TOLEDO: Fee structure and fees.

23 VICE CHAIR SADHWANI: Fee structure, yeah.

24 CHAIR YEE: Yeah.

25 VICE CHAIR TOLEDO: Maybe around reasonableness of

1 the fee structure and fees.

2 CHAIR YEE: Yeah. And then since we're proposing
3 co-counsel relationship, then maybe something
4 specifically about ability to work alongside co-counsel.

5 VICE CHAIR TOLEDO: Maybe their experience, if they
6 know of any experience of them working as co-counsel in
7 matters and what that was, was it a positive one, a
8 negative one.

9 VICE CHAIR SADHWANI: Right, or like general
10 relation -- general working relationship, and could you
11 view them -- if you don't have that experience, could you
12 view them as working collaboratively with counsel?

13 CHAIR YEE: Uh-huh. Okay, So I have: Experience
14 working -- general experience working with the candidate,
15 quality of legal advice, range of the firm's resources,
16 fee structure, is it reasonable.

17 VICE CHAIR TOLEDO: I would ask a question about
18 public trust. I think that's come up many times for
19 over --

20 CHAIR YEE: Yeah.

21 VICE CHAIR TOLEDO: -- at least for one of these
22 firms. But just in terms of, you know -- I'm not sure
23 how to phrase it at this point, but I do think it's the
24 public trust, and that may be how -- I'm not sure how to
25 phrase it, but it's a question of public trust and

1 transparency, is where I think we should have a question
2 on, and I'm just not sure how I would phrase it at this
3 point.

4 VICE CHAIR SADHWANI: Perhaps something along the
5 lines of public trust and transparency is paramount to
6 the work of the Citizens Redistricting Commission. To
7 what extent do you feel like this firm can also live up
8 to, you know, our need and desire for public trust and
9 transparency, something along those lines.

10 CHAIR YEE: And how it would --

11 VICE CHAIR TOLEDO: And how it work, yeah.

12 CHAIR YEE: Yeah. How it would add or detract from.

13 VICE CHAIR SADHWANI: How it would add or detract,
14 yeah.

15 VICE CHAIR TOLEDO: And then I would -- to Ms.
16 Gold's point earlier today, I think it would be good to
17 ask about commitment to ensuring -- and it's not just I
18 think all individuals, of course it's all it's always
19 about making sure everyone has the opportunity to elect
20 people of their choosing. But specifically, I think in
21 this case, I think to her point was really around
22 minority participation in the process, right? And
23 protecting of -- making sure that minorities have an
24 opportunity to elect people of their choosing, and
25 protecting that right.

1 And maybe I'm not saying that correctly or -- but so
2 please help me with thinking around this.

3 VICE CHAIR SADHWANI: Yeah. My only thought is that
4 actually, the litigation, or if I didn't specify that I
5 feel like it's possible that we won't get any VRA
6 challenges, that our only challenges will have to do with
7 procedure. And so are we then basing this on something
8 that's not entirely --

9 VICE CHAIR TOLEDO: I think you have to value -- I
10 think maybe it's the phrasing of something like: The
11 Commission is committed to ensuring that people have the
12 opportunity to elect people of their choosing, and
13 particularly, you know, in groups that were previously
14 excluded. And do you have any concerns about Counsel's
15 ability to be able to do that, and should that arise?
16 Something along that --

17 VICE CHAIR SADHWANI: So maybe it's a question about
18 their reputation.

19 VICE CHAIR TOLEDO: Their reputation, their values,
20 is ultimately aligned with our values, and that was in
21 our scoring sheet.

22 VICE CHAIR SADHWANI: Sure. Sure.

23 CHAIR YEE: Have you any concerns about their
24 reputation and values when we come to actually defending
25 the VRA, right?

1 VICE CHAIR TOLEDO: Sure.

2 VICE CHAIR SADHWANI: Well, it's defending the
3 Commission.

4 VICE CHAIR TOLEDO: Yeah.

5 CHAIR YEE: Right.

6 VICE CHAIR TOLEDO: Defending the Commission and the
7 VRA; the Commission, paramount, yeah.

8 VICE CHAIR SADHWANI: That it might be a by-product
9 of it.

10 VICE CHAIR TOLEDO: Yeah, that's true.

11 VICE CHAIR SADHWANI: But worth doing to defend the
12 Commission.

13 CHAIR YEE: Yeah.

14 VICE CHAIR SADHWANI: And I'm just hoping that we
15 are on the same page that we want to --

16 VICE CHAIR TOLEDO: Yeah, absolutely.

17 VICE CHAIR TOLEDO: -- abide by the VRA and
18 therefore support the interest of minority communities.

19 CHAIR YEE: Okay. That's a good list. Did you all
20 take that down, or do you want me to type it up?

21 VICE CHAIR TOLEDO: I think it'd be great if you
22 could --

23 VICE CHAIR SADHWANI: Type it up.

24 VICE CHAIR TOLEDO: I was going to say the same
25 thing.

1 CHAIR YEE: Okay. I'll do that. I'll do that after
2 this meeting, and send to you, and then I will --

3 VICE CHAIR SADHWANI: And I think -- oh, sorry.

4 CHAIR YEE: I was going to say, then I will follow
5 up disclosure matter, I'm thinking I would query Mr.
6 Scolnick directly. Is that the way to do it? And just
7 bring up the concerns that have been raised, and see how
8 he responds.

9 VICE CHAIR SADHWANI: Yeah, he's the lead for the
10 application. I do think -- I think we're on very fair
11 ground to just restate the wording of the RFI, as well as
12 what we've found in our Conflict Of Interest report, as
13 well as public comment, in particular -- if they want to
14 actually be considered by the Full Commission, they need
15 to send us a disclosure of the lobbying activities of the
16 Gibson Dunn, PAC, as well as -- I think there was maybe
17 one or two -- well, actually, I think I was only looking
18 at them from the perspective of the California Members of
19 Congress or candidates to Congress.

20 I think there were others that were outside of
21 California, you know, folks running for the House,
22 particularly that their other Counsel, Ted -- and I'm
23 definitely going to mess up how to say his name.

24 CHAIR YEE: [Boo-tros], I'm thinking.

25 VICE CHAIR SADHWANI: Boutrous, yes.

1 CHAIR YEE: Yeah.

2 VICE CHAIR SADHWANI: He was the one that had come
3 up on our Conflict Of Interest report. So my read of
4 that was from the lens of these are all, for the most
5 part, outside of California, but I think, just to be on
6 more secure grounds, we should ask them to send a note of
7 disclosure that would be posted on our website. It's
8 already posted on our website, but they need to do it,
9 and acknowledge it, if they want to be considered by the
10 Full Commission.

11 CHAIR YEE: Right. And for the public, I want to
12 state that, you know, even if they do respond fully to
13 all these points, we understand that it's not a -- there
14 still was an issue of nondisclosure earlier in the
15 process. So we realize that this is not an absolute full
16 remedy; at least on some of the points raised that were
17 less ambiguous, or not ambiguous. So yeah, I think it's
18 worth saying. Okay. Anything else?

19 VICE CHAIR TOLEDO: I think that'll get us the
20 information we need for -- I think what we did today will
21 get us the information we need to do the reference
22 checks, and we can certainly post the questions online to
23 make sure that the public has that information. Then can
24 we -- is there any preparation that we need to do for
25 next week as we move forward with making a recommendation

1 to the Full Commission? Anything else we need to do as
2 right now as we -- since we are in public session? I'm
3 just curious if there's anything else that we want to
4 prepare, or do for next week?

5 CHAIR YEE: Yeah.

6 VICE CHAIR SADHWANI: Should we -- I mean, just in
7 terms of how the Commission tends to work, we typically
8 ask for documents in advance, given that we have a formal
9 recommendation that we've voted on, do we want to just
10 put together a short memo, or something that -- just
11 simply stating the recommendation, and then providing the
12 two -- everyone on the Commission has had access to all
13 of the documents, but just pointing them to the two
14 applicants themselves, so that they can look at that in
15 greater detail in advance of Monday, in advance of us
16 asking them to make a decision or --

17 CHAIR YEE: Sure. Yeah.

18 VICE CHAIR SADHWANI: -- making decisions.

19 CHAIR YEE: I can draft that.

20 VICE CHAIR SADHWANI: Perfect.

21 CHAIR YEE: So then drafting -- basically drafting
22 the motion -- the memo including the motion, and what we
23 promised to provide for discussion.

24 VICE CHAIR SADHWANI: That's correct.

25 VICE CHAIR TOLEDO: Maybe some background just on,

1 not every Commissioner I'm sure, is watching. I know
2 there are probably one or two watching us. But most of
3 them are probably -- have delegated this work to us based
4 on some background on how we came to this process and --

5 CHAIR YEE: Okay. Maybe include the pluses and
6 minuses that I (indiscernible, simultaneous speech) --

7 VICE CHAIR TOLEDO: Yeah. I mean, I think if it's
8 explained, because I think if I saw the pluses and
9 minuses without the context, I think it would be
10 difficult. But as long as you provide a background, just
11 a brief background, I think that would be a great,
12 because it was an excellent document that I really
13 appreciated.

14 VICE CHAIR SADHWANI: Yeah.

15 VICE CHAIR TOLEDO: But if I hadn't been following
16 this process, and participating in the process, it might
17 have been -- I might not have understood it so much.

18 CHAIR YEE: Right.

19 VICE CHAIR SADHWANI: Yeah, my sense is a high-level
20 background, right?

21 CHAIR YEE: Yes.

22 VICE CHAIR SADHWANI: And then when we talk with the
23 Full Commission and present the recommendation, we can go
24 into greater detail.

25 CHAIR YEE: Right.

1 VICE CHAIR TOLEDO: And I think -- also I think the
2 Commission will want to know our thoughts on the
3 procurement process. So yes, they make a
4 recommendation -- let's say that they -- that we, as the
5 Commission, make a decision next week on who to move
6 forward with. But what's the process afterwards, right?
7 We make a decision. We need to go through the
8 procurement process? What does that look like? Who's
9 going to be the lead? How are these issues going to be
10 negotiated? What are the issues that we're going to be
11 negotiating?

12 I think we want to be able to take that back to the
13 Commission so that we can fully, almost like a little
14 workplan, right, like thing. This is the next set of
15 work that we're going to tackle as a committee, if in
16 fact we're going to be doing it as a committee.

17 And this is our timeline. This is our process.
18 These are the issues we need to negotiate, and so that
19 they can feel confident in that and ready to make a
20 decision next week, or not.

21 And maybe it's whether we need a little bit more
22 time as a Full Commission to get to work out those
23 details, and make a decision later, or more likely than
24 not, I think the Commission will feel confident in our
25 ability to continue to meet in the month of April and

1 hash out these details, and work through the
2 negotiating -- the negotiation process, as the Legal
3 Affairs Counsel of some other kind of group.

4 But maybe you hash that out, and I'm not sure if you
5 want to tackle that, Commissioner Yee; or if you want one
6 of us to tackle it with that Staff.

7 CHAIR YEE: Well, one issue is that we actually have
8 not scheduled and agendized yet the next Legal Affairs
9 Committee Meeting. Maybe we should actually do that
10 right now, because we definitely have --

11 VICE CHAIR SADHWANI: Isn't that on all agendas at
12 this point, or no?

13 VICE CHAIR TOLEDO: No.

14 CHAIR YEE: No --

15 VICE CHAIR TOLEDO: I believe --

16 VICE CHAIR SADHWANI: Okay.

17 VICE CHAIR TOLEDO: I don't think we're agendized
18 anymore because I believe we just hadn't planned on the
19 next phase yet.

20 VICE CHAIR SADHWANI: The next, yeah. I see.

21 VICE CHAIR TOLEDO: And we're just focusing on
22 making a recommendation.

23 CHAIR YEE: Right.

24 VICE CHAIR TOLEDO: I think the next phase is really
25 working through the procurement process. That tends to

1 be a pretty -- especially now if we're proposing the co-
2 counsel, will tend to -- will mean we'll have to work
3 through all of the details with Staff.

4 CHAIR YEE: Right.

5 VICE CHAIR SADHWANI: Correct. I'm wondering if
6 perhaps (indiscernible, simultaneous speech) --

7 VICE CHAIR TOLEDO: And honestly --

8 VICE CHAIR SADHWANI: -- wants to take that on.

9 VICE CHAIR TOLEDO: And honestly, I think the reason
10 we were thinking in this manner, if I remember correctly,
11 was because we were hoping to have Chief Counsel --

12 VICE CHAIR SADHWANI: Do it, yeah.

13 VICE CHAIR TOLEDO: -- a permanent Chief Counsel on
14 in the month of April. I don't see that happening in the
15 month of April. I see that happening probably in May.
16 And I'm not sure if we want to wait until May. So if
17 not, I think we probably need to -- I'm happy to take
18 that on since I'll be Chair in April. And work through
19 the procurement process, and we'll get that on the
20 procurement and all the rest of the processes.

21 VICE CHAIR SADHWANI: I love that idea, Commissioner
22 Toledo. I love that idea.

23 CHAIR YEE: Oh. I'm all for that.

24 VICE CHAIR SADHWANI: Thank you.

25 VICE CHAIR TOLEDO: I'm also willing to schedule a

1 meeting, so.

2 VICE CHAIR SADHWANI: Yes, for sure.

3 CHAIR YEE: So looking at looking at the upcoming
4 meetings, I think April 12/13 is probably the closest
5 one, and that's the one where the 14th, Wednesday,
6 there's an evening meeting scheduled for public input.

7 VICE CHAIR TOLEDO: Oh.

8 VICE CHAIR SADHWANI: So perhaps we can do the 14th,
9 morning?

10 CHAIR YEE: Yeah, that's what I'm thinking.

11 VICE CHAIR SADHWANI: I don't know how that works
12 from --

13 DIRECTOR HERNANDEZ: Not morning for Staff.

14 VICE CHAIR SADHWANI: -- videography, and -- sorry?

15 DIRECTOR HERNANDEZ: It wouldn't be in the morning.
16 It would be before that scheduled meeting.

17 VICE CHAIR SADHWANI: All right.

18 DIRECTOR HERNANDEZ: That might be an option. But
19 we could discuss that further to solidify the time frame.

20 VICE CHAIR SADHWANI: Okay.

21 CHAIR YEE: So maybe like 1:00 to 4:00 that day.

22 VICE CHAIR SADHWANI: What is that date? April
23 14th, you said?

24 CHAIR YEE: April 14th. Yeah. And you have to
25 teach in the evening, Commissioner Sadhwani.

1 VICE CHAIR SADHWANI: Yeah. Yeah, I'll take a
2 closer look at my schedule for that day.

3 CHAIR YEE: Okay. I'll go ahead and add that to the
4 agenda for those meetings.

5 VICE CHAIR SADHWANI: And so are we officially
6 saying that Commissioner Toledo is -- we are giving him
7 that ability to move forward with the --

8 VICE CHAIR TOLEDO: Procurement.

9 VICE CHAIR SADHWANI: -- procurement and contracting
10 for the steps --

11 VICE CHAIR TOLEDO: Going through the process and
12 developing a plan for it?

13 CHAIR YEE: Happily.

14 VICE CHAIR SADHWANI: And I guess -- in April then,
15 I guess I would be best vice chair --

16 VICE CHAIR TOLEDO: You're vice chair.

17 VICE CHAIR SADHWANI: Okay.

18 CHAIR YEE: Now, quickly, in the (indiscernible).

19 VICE CHAIR SADHWANI: I know; lucky me.

20 VICE CHAIR TOLEDO: It'll be great. We can work
21 through this.

22 VICE CHAIR SADHWANI: Yeah.

23 CHAIR YEE: Okay. So with this: I will type up the
24 reference check questions, and then later today I'll get
25 a memo together -- a draft memo together to show you on

1 what we'll be reporting to the Full Commission, I will
2 agendize, I will follow up with Gibson Dunn about
3 disclosures, I will add the agenda item to the April 14th
4 meeting. Pedro will begin thinking about procurement.
5 Sounds good.

6 VICE CHAIR TOLEDO: The one I hear -- if there's any
7 public comment at this point? I know it's open, but.

8 VICE CHAIR SADHWANI: Oh, yeah.

9 CHAIR YEE: Right. Yeah, sure, in a few more
10 moments, I don't think we ever closed it. But then Katy
11 says there's none at the moment.

12 Any last comments from Counsel; Deborah, anything
13 else to add?

14 ATTORNEY YANG: No, I don't. It was a pleasure
15 serving the Committee.

16 CHAIR YEE: Thank you for your involvement, and
17 presence these three days. Okay. Anything else?

18 VICE CHAIR SADHWANI: I am wondering if, just before
19 we go, since we are all here, if Alvaro has anything more
20 to add, especially as we begin to think about contracts
21 and procurement, anything that we should be aware of.
22 Certainly we should follow up with Marian, as well as --
23 and Raul, I think they have, of course, done this
24 previously, and can provide a lot of great knowledge and
25 information.

1 But I just wanted to hear from Alvaro, very quickly,
2 before we go.

3 DIRECTOR HERNANDEZ: Yeah, I was going to reach out
4 to Raul, and also Marian, just to get their experience
5 with this process. This will be my first time with this
6 part of the process. So I'm looking forward to it. I
7 don't know what I don't know.

8 VICE CHAIR SADHWANI: Yeah, okay.

9 DIRECTOR HERNANDEZ: So I'm hoping that we don't
10 have any surprises. I think we've covered all the bases
11 from the conversations we've had. All the topics that I
12 had on my mind were touched on. So moving forward, I
13 think we're going to identify those areas, and make a
14 better plan moving forward. So thank you.

15 CHAIR YEE: Okay with that, I want to thank Katy,
16 our Comment Moderator; Deborah Yang from the AG's Office,
17 our ASL interpreters, captioner, Kristian as always; a
18 cast of thousands.

19 And my fellow Commissioners, Toledo and Sadhwani,
20 it's a pleasure serving with you on the Legal Affairs
21 Committee.

22 And Director Hernandez, we've got lots to do, and
23 glad to be working together on all these matters.

24 VICE CHAIR TOLEDO: And thank you for all your hard
25 work. It's hard to be chair and when we're doing the

1 procurement process, and going through trying to finalize
2 our recommendation for the Full Commission. So
3 appreciate all of your hard work, countless hours on
4 this.

5 CHAIR YEE: An honor and a pleasure.

6 VICE CHAIR SADHWANI: Absolutely. Absolutely; you
7 did a great job, Chair.

8 CHAIR YEE: Thank you.

9 VICE CHAIR TOLEDO: Appreciated.

10 CHAIR YEE: I'm just glad that we came to our
11 unanimous decision, happily.

12 VICE CHAIR SADHWANI: I agree.

13 VICE CHAIR TOLEDO: Thank you.

14 CHAIR YEE: Okay. With that, this meeting is
15 adjourned.

16 (Whereupon, the Legal Affairs Commission
17 Meeting adjourned at 12:15 p.m.)

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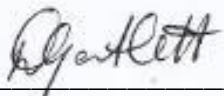
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And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.



June 11, 2023

DELORIS GAUNTLETT, CDLT-257